

STATE OF MINNESOTA

NINETY-FIRST SESSION — 2019

 FIFTY-FIFTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, MAY 16, 2019

The House of Representatives convened at 10:00 a.m. and was called to order by Liz Olson, Speaker pro tempore.

Prayer was offered by the Reverend Kevin Finnegan, Our Lady of Grace Catholic Church and School, Edina, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

| | | | | | |
|-------------|------------|-----------------|-----------|------------|--------------|
| Acomb | Dehn | Hassan | Lien | Nelson, M. | Sauke |
| Albright | Demuth | Hausman | Lillie | Nelson, N. | Schomacker |
| Backer | Dettmer | Heinrich | Lippert | Neu | Schultz |
| Bahner | Drazkowski | Heintzeman | Lislegard | Noor | Scott |
| Bahr | Ecklund | Her | Loeffler | Nornes | Stephenson |
| Baker | Edelson | Hertaus | Long | O'Driscoll | Sundin |
| Becker-Finn | Elkins | Hornstein | Lucero | Olson | Swedzinski |
| Bennett | Erickson | Howard | Lueck | O'Neill | Tabke |
| Bernardy | Fabian | Huot | Mahoney | Pelowski | Theis |
| Bierman | Fischer | Johnson | Mann | Persell | Torkelson |
| Boe | Franson | Jurgens | Mariani | Petersburg | Urdahl |
| Brand | Freiberg | Kiel | Marquart | Pierson | Vang |
| Cantrell | Garofalo | Klevorn | Masin | Pinto | Vogel |
| Carlson, A. | Gomez | Koegel | McDonald | Poppe | Wagenius |
| Carlson, L. | Green | Kotyza-Witthuhn | Mekeland | Poston | Wazlawik |
| Christensen | Grossell | Koznick | Miller | Pryor | Winkler |
| Clafin | Gruenhagen | Kresha | Moller | Quam | Wolgamott |
| Considine | Gunther | Kunesh-Podein | Moran | Richardson | Xiong, J. |
| Daniels | Haley | Layman | Morrison | Robbins | Xiong, T. |
| Daudt | Halverson | Lee | Munson | Runbeck | Youakim |
| Davids | Hamilton | Lesch | Murphy | Sandell | Zerwas |
| Davnie | Hansen | Liebling | Nash | Sandstede | Spk. Hortman |

A quorum was present.

Anderson and West were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. There being no objection, further reading of the Journal was dispensed with and the Journal was approved as corrected by the Chief Clerk.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 15, 2019

The Honorable Melissa Hortman
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Hortman:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 1983, relating to human services; modifying intervener services for persons who are deafblind.

H. F. No. 1244, relating to natural resources; accelerating public drainage system acquisition and compensation of ditch buffer strips; providing runoff and sediment option when charging for public drainage ditch repairs.

H. F. No. 85, relating to health; authorizing the Emergency Medical Services Regulatory Board to propose guidelines authorizing patient-assisted medication administration in emergencies.

Sincerely,

TIM WALZ
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Melissa Hortman
Speaker of the House of Representatives

The Honorable Jeremy R. Miller
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2019 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| <i>S. F. No.</i> | <i>H. F. No.</i> | <i>Session Laws Chapter No.</i> | <i>Time and Date Approved 2019</i> | <i>Date Filed 2019</i> |
|----------------------|----------------------|-------------------------------------|--|----------------------------|
| | 1983 | 23 | 2:53 p.m. May 15 | May 15 |
| | 1244 | 24 | 2:54 p.m. May 15 | May 15 |
| | 85 | 25 | 2:57 p.m. May 15 | May 15 |

Sincerely,

STEVE SIMON
Secretary of State

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Dehn introduced:

H. F. No. 2893, A bill for an act relating to capital investment; appropriating money for Phase 2 of Water Works Park in Minneapolis; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Ways and Means.

Bennett, Gunther, Poppe, Hansen and Lillie introduced:

H. F. No. 2894, A bill for an act relating to capital investment; appropriating money for the Shell Rock River Watershed District; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Ways and Means.

Gruenhagen, Gunther, Urdahl, Erickson, Backer, Edelson, Poston, Lucero, Scott, McDonald, Dettmer, O'Neill, Vogel, Quam, Runbeck, Sandstede, Lislegard, Poppe, Heinrich, Daniels and Layman introduced:

H. F. No. 2895, A bill for an act relating to commerce; requiring age verification to view pornography online; proposing coding for new law in Minnesota Statutes, chapter 325F.

The bill was read for the first time and referred to the Committee on Commerce.

Runbeck, Albright, Petersburg, Heinrich, West and Koznick introduced:

H. F. No. 2896, A bill for an act relating to mass transit; requesting the Office of the Legislative Auditor to review Metro Transit bus operations management practices.

The bill was read for the first time and referred to the Committee on Government Operations.

Marquart introduced:

H. F. No. 2897, A bill for an act relating to taxes; property taxes; homestead application; amending Minnesota Statutes 2018, section 273.124, subdivision 13.

The bill was read for the first time and referred to the Committee on Taxes.

Becker-Finn, Zerwas, Edelson and Hassan introduced:

H. F. No. 2898, A bill for an act relating to civil commitment; modifying provisions governing civil commitment; establishing engagement services pilot project; appropriating money; amending Minnesota Statutes 2018, sections 253B.02, subdivisions 4b, 7, 8, 9, 10, 12a, 13, 16, 17, 18, 19, 21, 22, 23, by adding subdivisions; 253B.03, subdivisions 1, 2, 3, 4a, 5, 6, 6b, 6d, 7, 10; 253B.04, subdivisions 1, 1a, 2; 253B.045, subdivisions 2, 3, 5, 6; 253B.06, subdivisions 1, 2, 3; 253B.07, subdivisions 1, 2, 2b, 2d, 3, 4, 5, 7; 253B.08, subdivisions 1, 2a, 5, 5a; 253B.09, subdivisions 1, 2, 3a, 5; 253B.092; 253B.0921; 253B.095, subdivision 3; 253B.097, subdivisions 1, 2, 3, 6; 253B.10; 253B.12, subdivisions 1, 2, 3, 4, 7; 253B.13, subdivision 1; 253B.14; 253B.141; 253B.15, subdivisions 1, 1a, 2, 3, 3a, 3b, 3c, 5, 7, 9, 10, by adding a subdivision; 253B.16; 253B.17; 253B.18, subdivisions 1, 2, 3, 4a, 4b, 4c, 5, 5a, 6, 7, 8, 10, 11, 12, 14, 15; 253B.19, subdivision 2; 253B.20, subdivisions 1, 2, 3, 4, 6; 253B.21, subdivisions 1, 2, 3; 253B.212, subdivisions 1, 1a, 1b, 2; 253B.22, subdivisions 1, 2, 3, 4; 253B.23, subdivisions 1, 1b, 2; 253B.24; 253D.02, subdivision 6; 253D.07, subdivision 2; 253D.10, subdivision 2; 253D.21; 253D.28, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 253B; repealing Minnesota Statutes 2018, sections 253B.02, subdivision 6; 253B.05, subdivisions 1, 2, 2b, 3, 4; 253B.064; 253B.065; 253B.066; 253B.09, subdivision 3; 253B.15, subdivision 11; 253B.20, subdivision 7.

The bill was read for the first time and referred to the Committee on Health and Human Services Policy.

Winkler moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Halverson.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 559, A bill for an act relating to health occupations; requiring a provider-patient relationship in order to make ophthalmic prescriptions; amending Minnesota Statutes 2018, section 145.713, by adding a subdivision.

CAL R. LUDEMAN, Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 622, A bill for an act relating to commerce; modifying advertising requirements related to real estate brokers and licensees; amending Minnesota Statutes 2018, section 82.69.

CAL R. LUDEMAN, Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 810, A bill for an act relating to veterans; authorizing the placement of a plaque in the court of honor on the Capitol grounds to honor all Minnesota veterans who served in the United States armed forces, both at home and abroad, during World War I.

CAL R. LUDEMAN, Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 281, A bill for an act relating to Open Meeting Law; modifying requirements for attendance by interactive television; amending Minnesota Statutes 2018, section 13D.02, subdivisions 1, 2, by adding a subdivision.

CAL R. LUDEMAN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Koegel moved that the House concur in the Senate amendments to H. F. No. 281 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 281, A bill for an act relating to Open Meeting Law; modifying requirements for attendance by interactive television; amending Minnesota Statutes 2018, section 13D.02, subdivisions 1, 2, by adding a subdivision.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|----------|--------|-------------|---------|-------------|-------------|
| Acomb | Bahner | Becker-Finn | Bierman | Cantrell | Christensen |
| Albright | Bahr | Bennett | Boe | Carlson, A. | Clafin |
| Backer | Baker | Bernardy | Brand | Carlson, L. | Considine |

| | | | | | |
|------------|------------|-----------------|------------|------------|--------------|
| Daniels | Gruenhagen | Koegel | Mariani | O'Neill | Stephenson |
| Daudt | Gunther | Kotzya-Witthuhn | Marquart | Pelowski | Sundin |
| Davids | Haley | Koznick | Masin | Persell | Swedzinski |
| Davnie | Halverson | Kresha | McDonald | Petersburg | Tabke |
| Demuth | Hamilton | Kunesh-Podein | Mekeland | Pierson | Theis |
| Dettmer | Hansen | Layman | Miller | Pinto | Torkelson |
| Drazkowski | Hassan | Lee | Moller | Poppe | Urdahl |
| Ecklund | Hausman | Lesch | Moran | Poston | Vang |
| Edelson | Heinrich | Liebling | Morrison | Pryor | Vogel |
| Elkins | Heintzeman | Lien | Munson | Quam | Wagenius |
| Erickson | Her | Lillie | Murphy | Richardson | Wazlawik |
| Fabian | Hertaus | Lippert | Nash | Robbins | Winkler |
| Fischer | Hornstein | Lislegard | Nelson, M. | Runbeck | Wolgamott |
| Franson | Howard | Loeffler | Nelson, N. | Sandell | Xiong, J. |
| Freiberg | Huot | Long | Neu | Sandstede | Xiong, T. |
| Garofalo | Johnson | Lucero | Noor | Sauke | Youakim |
| Gomez | Jurgens | Lueck | Nornes | Schomacker | Zerwas |
| Green | Kiel | Mahoney | O'Driscoll | Schultz | Spk. Hortman |
| Grossell | Klevorn | Mann | Olson | Scott | |

The bill was repassed, as amended by the Senate, and its title agreed to.

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2849, A bill for an act relating to higher education; providing student relief from Argosy University closure; requiring a report.

CAL R. LUDEMAN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Bernardy moved that the House concur in the Senate amendments to H. F. No. 2849 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2849, A bill for an act relating to higher education; providing student relief from Argosy University closure; requiring a report.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 2 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|----------|-------------|----------|----------|-------------|-----------|
| Acomb | Bahner | Bennett | Boe | Carlson, A. | Claflin |
| Albright | Baker | Bernardy | Brand | Carlson, L. | Considine |
| Backer | Becker-Finn | Bierman | Cantrell | Christensen | Daniels |

| | | | | | |
|------------|-----------------|---------------|------------|------------|--------------|
| Daudt | Haley | Koznick | Masin | Petersburg | Tabke |
| Davids | Halverson | Kresha | McDonald | Pierson | Theis |
| Davnie | Hamilton | Kunesh-Podein | Mekeland | Pinto | Torkelson |
| Demuth | Hansen | Layman | Miller | Poppe | Urdahl |
| Dettmer | Hassan | Lee | Moller | Poston | Vang |
| Ecklund | Hausman | Lesch | Moran | Pryor | Vogel |
| Edelson | Heinrich | Liebling | Morrison | Quam | Wagenius |
| Elkins | Heintzeman | Lien | Murphy | Richardson | Wazlawik |
| Erickson | Her | Lillie | Nash | Robbins | Winkler |
| Fabian | Hertaus | Lippert | Nelson, M. | Runbeck | Wolgamott |
| Fischer | Hornstein | Lislegard | Nelson, N. | Sandell | Xiong, J. |
| Franson | Howard | Loeffler | Neu | Sandstede | Xiong, T. |
| Freiberg | Huot | Long | Noor | Sauke | Youakim |
| Garofalo | Johnson | Lucero | Nornes | Schomacker | Zerwas |
| Gomez | Jurgens | Lueck | O'Driscoll | Schultz | Spk. Hortman |
| Green | Kiel | Mahoney | Olson | Scott | |
| Grossell | Klevorn | Mann | O'Neill | Stephenson | |
| Gruenhagen | Koegel | Mariani | Pelowski | Sundin | |
| Gunther | Kotyza-Witthuhn | Marquart | Persell | Swedzinski | |

Those who voted in the negative were:

Bahr Draskowski

The bill was repassed, as amended by the Senate, and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. No. 1733

A bill for an act relating to agriculture; making policy and technical changes to various agricultural provisions including provisions related to hemp, food handlers, eggs, milk, cheese, bioincentive programs, loan programs, pesticides, nursery stock, open-air swine basins, and other agriculture provisions; amending Minnesota Statutes 2018, sections 18B.02; 18H.10; 18K.02, subdivision 3; 18K.06; 25.33, subdivision 8; 28A.04, subdivision 1; 28A.05; 28A.075; 28A.0752, subdivisions 1, 2; 28A.08, subdivision 3; 29.26; 31.94; 32D.13, by adding a subdivision; 32D.20, subdivision 2; 32D.22; 34A.11, subdivision 7; 41A.15, subdivisions 2, 10, by adding a subdivision; 41A.16, subdivisions 1, 2, 4; 41A.17, subdivisions 1, 2, 3; 41A.18, subdivisions 1, 2, 3; 41B.02, subdivision 10a; 41B.03, subdivision 3; 41B.0391, subdivision 1; 41B.049, subdivisions 1, 5; 41B.055, subdivision 3; 41B.057, subdivision 3; 116.0714; repealing Minnesota Statutes 2018, section 41A.15, subdivisions 2a, 2b.

May 15, 2019

The Honorable Melissa Hortman
Speaker of the House of Representatives

The Honorable Jeremy R. Miller
President of the Senate

We, the undersigned conferees for H. F. No. 1733 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1733 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2018, section 17.494, is amended to read:

17.494 AQUACULTURE PERMITS; RULES.

(a) The commissioner shall act as permit or license coordinator for aquatic farmers and shall assist aquatic farmers to obtain licenses or permits.

~~By July 1, 1992,~~ (b) A state agency issuing multiple permits or licenses for aquaculture shall consolidate the permits or licenses required for every aquatic farm location. The Department of Natural Resources transportation permits are exempt from this requirement. State agencies shall adopt rules or issue commissioner's orders that establish permit and license requirements, approval timelines, and compliance standards. Saltwater aquatic farms, as defined in section 17.4982, and processing facilities for saltwater aquatic life, as defined in section 17.4982, must be classified as agricultural operations for purposes of any construction, discharge, or other permit issued by the Pollution Control Agency.

Nothing in this section modifies any state agency's regulatory authority over aquaculture production.

Sec. 2. Minnesota Statutes 2018, section 17.4982, is amended by adding a subdivision to read:

Subd. 20a. **Saltwater aquaculture.** "Saltwater aquaculture" means the commercial propagation and rearing of saltwater aquatic life primarily for consumption as human food.

Sec. 3. Minnesota Statutes 2018, section 17.4982, is amended by adding a subdivision to read:

Subd. 20b. **Saltwater aquatic farm.** "Saltwater aquatic farm" means a facility used for saltwater aquaculture including but not limited to artificial ponds, vats, tanks, raceways, and other facilities that an aquatic farmer owns or has exclusive control of for the sole purpose of producing saltwater aquatic life.

Sec. 4. Minnesota Statutes 2018, section 17.4982, is amended by adding a subdivision to read:

Subd. 20c. **Saltwater aquatic life.** "Saltwater aquatic life" means aquatic species that are saltwater obligates or perform optimally when raised in salinities closer to that of natural seawater and need saltwater to survive. Saltwater aquatic life includes but is not limited to crustaceans.

Sec. 5. **[17.499] TRANSPORTATION OR IMPORTATION OF SALTWATER AQUATIC LIFE; QUARANTINE REQUIREMENT.**

Subdivision 1. **Purpose.** The legislature finds that it is in the public interest to increase private saltwater aquaculture production and processing in this state under the coordination of the commissioner of agriculture. Additional private production will reduce dependence on foreign suppliers and benefit the rural economy by creating new jobs and economic activity.

Subd. 2. **Transportation permit.** (a) Notwithstanding the requirements in section 17.4985, saltwater aquatic life transportation and importation requirements are governed by this section. A transportation permit is required before importation or intrastate transportation of saltwater aquatic life not exempted under subdivision 3. A transportation permit may be used for multiple shipments within the 30-day term of the permit if the source and the destination are the same. Transportation permits must be obtained from the commissioner before shipment of saltwater aquatic life.

(b) An application for a transportation permit must be made in the form required by the commissioner. The commissioner may reject an incomplete application.

(c) An application for a transportation permit must be accompanied by satisfactory evidence, as determined by the commissioner, that the shipment is free of any nonindigenous species of animal other than the saltwater aquatic species and either:

(1) the facility from which the saltwater aquatic life originated has provided documentation of 36 or more consecutive months of negative testing by an approved laboratory as free of any disease listed by OIE - the World Organisation for Animal Health for that species following the testing guidelines outlined in the OIE Aquatic Animal Health Code for crustaceans or the AFS Fish Health Blue Book for other species, as appropriate; or

(2) the saltwater aquatic life to be imported or transported includes documentation of negative testing for that specific lot by an approved laboratory as free of any disease listed by OIE - the World Organisation for Animal Health for crustaceans or in the AFS Fish Health Blue Book for other species, as appropriate.

If a shipment authorized by the commissioner under clause (1) includes saltwater aquatic life that originated in a foreign country, the shipment must be quarantined at the receiving facility according to a quarantine plan approved by the commissioner. A shipment authorized by the commissioner under clause (2) must be quarantined at the receiving facility according to a quarantine plan approved by the commissioner.

(d) For purposes of this subdivision, "approved laboratory" means a laboratory approved by the commissioner or the United States Department of Agriculture, Animal and Plant Health Inspection Services.

(e) No later than 14 calendar days after a completed transportation permit application is received, the commissioner shall approve or deny the transportation permit application.

(f) A copy of the transportation permit must accompany a shipment of saltwater aquatic life while in transit and must be available for inspection by the commissioner.

(g) A vehicle used by a licensee for transporting aquatic life must be identified with the license number and the licensee's name and town of residence as it appears on the license. A vehicle used by a licensee must have identification displayed so that it is readily visible from either side of the vehicle in letters and numbers not less than 2-1/2 inches high and three-eighths inch wide. Identification may be permanently affixed to vehicles or displayed on removable plates or placards placed on opposite doors of the vehicle or on the tanks carried on the vehicle.

(h) An application to license a vehicle for brood stock or larvae transport or for use as a saltwater aquatic life vendor that is received by the commissioner is a temporary license until approved or denied by the commissioner.

Subd. 3. Exemptions. (a) A transportation permit is not required to transport or import saltwater aquatic life:

(1) previously processed for use as food or other purposes unrelated to propagation;

(2) transported directly to an outlet for processing as food or for other food purposes if accompanied by shipping documents;

(3) that is being exported if accompanied by shipping documents;

(4) that is being transported through the state if accompanied by shipping documents; or

(5) transported intrastate within or between facilities licensed for saltwater aquaculture by the commissioner if accompanied by shipping documents.

(b) Shipping documents required under paragraph (a) must include the place of origin, owner or consignee, destination, number, species, and satisfactory evidence, as determined by the commissioner, of the disease-free certification required under subdivision 2, paragraph (c), clauses (1) and (2).

Sec. 6. Minnesota Statutes 2018, section 18B.34, subdivision 5, is amended to read:

Subd. 5. **Fees.** (a) Except as provided under paragraph (b), a person initially applying for or renewing a noncommercial applicator license must pay a nonrefundable application fee of \$50, except an applicant who is a government or Conservation Corps Minnesota employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of \$10.

(b) A government employee, a contractor providing rest area custodial services for the commissioner of transportation, or a Conservation Corps Minnesota employee is eligible for a reduced fee of \$10 if the employee or contractor uses pesticides in the course of performing official duties.

~~(b)~~ (c) A license renewal application received after March 1 in the year for which the license is to be issued is subject to a penalty fee of 50 percent of the application fee. The penalty fee must be paid before the renewal license may be issued.

~~(e)~~ (d) An application for a duplicate noncommercial applicator license must be accompanied by a nonrefundable application fee of \$10.

Sec. 7. Minnesota Statutes 2018, section 18H.10, is amended to read:

18H.10 STORAGE OF NURSERY STOCK.

(a) All nursery stock must be kept and displayed under conditions of temperature, light, and moisture sufficient to maintain the viability and vigor of the nursery stock.

(b) Packaged dormant nursery stock must be stored under conditions that retard growth, prevent etiolated growth, and protect its viability.

(c) Balled and burlapped nursery stock being held for sale to the public must be kept in a moisture-holding material approved by the commissioner and not toxic to plants. The moisture-holding material must adequately cover and protect the ball of earth and must be kept moist at all times. The commissioner may approve alternative nursery stock management practices to maintain the viability of balled and burlapped stock.

Sec. 8. Minnesota Statutes 2018, section 25.33, subdivision 8, is amended to read:

Subd. 8. **Drug.** "Drug" means (1) any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; and (2) articles other than feed intended to affect the structure or any function of the animal body.

Sec. 9. Minnesota Statutes 2018, section 28A.04, subdivision 1, is amended to read:

Subdivision 1. **Application; date of issuance.** (a) No person shall engage in the business of manufacturing, processing, selling, handling, or storing food without having first obtained from the commissioner a license for doing such business. Applications for such license shall be made to the commissioner in such manner and time as

required and upon such forms as provided by the commissioner and shall contain the name and address of the applicant, address or description of each place of business, and the nature of the business to be conducted at each place, and such other pertinent information as the commissioner may require.

(b) A retail or wholesale food handler license shall be issued for the period July 1 to June 30 following and shall be renewed thereafter by the licensee on or before July 1 each year, except that:

(1) licenses for all mobile food concession units and retail mobile units must be issued for the period April 1 to March 31, and must be renewed thereafter by the licensee on or before April 1 each year; and

(2) a license issued for a temporary food concession stand must have a license issuance and renewal date consistent with appropriate statutory provisions.

(c) A custom exempt food handler license shall be issued for the period July 1 to June 30 following and shall be renewed thereafter by the licensee on or before July 1 each year. The custom exempt food handler license is for businesses that only conduct custom exempt operations and mark all products as "Not For Sale." Food handlers that conduct retail exempt operations or other operations other than custom exempt processing or slaughter are not eligible for this license.

(d) A license for a food broker or for a food processor or manufacturer shall be issued for the period January 1 to December 31 following and shall be renewed thereafter by the licensee on or before January 1 of each year, except that a license for a wholesale food processor or manufacturer operating only at the state fair shall be issued for the period July 1 to June 30 following and shall be renewed thereafter by the licensee on or before July 1 of each year. A penalty for a late renewal shall be assessed in accordance with section 28A.08.

(~~e~~) (e) A person applying for a new license up to 14 calendar days before the effective date of the new license period under paragraph (b) must be issued a license for the 14 days and the next license year as a single license and pay a single license fee as if the 14 days were part of the upcoming license period.

Sec. 10. Minnesota Statutes 2018, section 28A.05, is amended to read:

28A.05 CLASSIFICATION.

All persons required to have a license under section 28A.04 shall be classified into one of the following classes of food handlers, according to their principal mode of business.

(a) Retail food handlers are persons who sell or process and sell food directly to the ultimate consumer or who custom process meat or poultry. The term includes a person who sells food directly to the ultimate consumer through the use of vending machines, and a person who sells food for consumption on site or off site if the sale is conducted on the premises that are part of a grocery or convenience store operation.

(b) Wholesale food handlers are persons who sell to others for resale. A person who handles food in job lots (jobbers) is included in this classification.

(c) Wholesale food processors or manufacturers are persons who process or manufacture raw materials and other food ingredients into food items, or who reprocess food items, or who package food for sale to others for resale, or who commercially slaughter animals or poultry. Included herein are persons who can, extract, ferment, distill, pickle, bake, freeze, dry, smoke, grind, mix, stuff, pack, bottle, recondition, or otherwise treat or preserve food for sale to others for resale, cold storage warehouse operators as defined in section 28.01, subdivision 3, salvage food processors as defined in section 31.495, subdivision 1, and dairy plants as defined in section 32D.01, subdivision 6.

(d) Custom exempt food handlers are persons who only conduct custom exempt processing as defined in section 31A.02, subdivision 5. A retail or wholesale transaction may not take place in a facility operated by a person with a custom exempt food handler license.

~~(d)~~ (e) A food broker is a person who buys and sells food and who negotiates between a buyer and a seller of food, but who at no time has custody of the food being bought and sold.

Sec. 11. Minnesota Statutes 2018, section 28A.075, is amended to read:

28A.075 DELEGATION TO LOCAL BOARD OF HEALTH.

(a) At the request of a local board of health that licensed and inspected grocery and convenience stores on January 1, 1999, the commissioner must enter into agreements before January 1, 2001, with local boards of health to delegate to the appropriate local board of health the licensing and inspection duties of the commissioner pertaining to retail food handlers that are grocery or convenience stores. At the request of a local board of health that licensed and inspected part of any grocery or convenience store on January 1, 1999, the commissioner must enter into agreements before July 1, 2001, with local boards of health to delegate to the appropriate local board of health the licensing and inspection duties of the commissioner pertaining to retail food handlers that are grocery or convenience stores. At any time thereafter, the commissioner may enter into an agreement with a local board of health that licensed and inspected all or part of any grocery or convenience store on January 1, 1999, to delegate to the appropriate local board of health the licensing and inspection duties of the commissioner pertaining to retail food handlers ~~that are~~ such as grocery or convenience stores. Retail ~~grocery or convenience stores~~ food handlers inspected under the state meat inspection program of chapter 31A are exempt from delegation.

(b) A local board of health must adopt an ordinance consistent with the Minnesota Food Code, Minnesota Rules, chapter 4626, for all of its jurisdiction to regulate ~~grocery and convenience stores~~ retail food handlers and the ordinance (Food Code) must not be in conflict with standards set in law or rule.

(c) A fee to recover the estimated costs of enforcement of this chapter must be established by ordinance and must be fair, reasonable, and proportionate to the actual cost of the licensing and inspection services. The fee must only be maintained and used for the estimated costs of enforcing this chapter.

Sec. 12. Minnesota Statutes 2018, section 28A.0752, subdivision 1, is amended to read:

Subdivision 1. **Agreements to perform duties of commissioner.** (a) Agreements to delegate licensing and inspection duties pertaining to retail ~~grocery or convenience stores~~ food handlers shall include licensing, inspection, reporting, and enforcement duties authorized under sections 17.04, 29.21, 29.23, 29.235, 29.236, 29.237, 29.24, 29.25, 29.26, 29.27, and 30.49, appropriate sections of the Minnesota Food Law, chapters 31 and 34A, and applicable Minnesota food rules.

(b) Agreements are subject to subdivision 3.

(c) This subdivision does not affect agreements entered into under section 28A.075 or current cooperative agreements which base inspections and licensing responsibility on the firm's most predominant mode of business.

Sec. 13. Minnesota Statutes 2018, section 28A.0752, subdivision 2, is amended to read:

Subd. 2. **Approval of agreements.** An agreement to delegate licensing and inspection of retail food handlers ~~that are grocery or convenience stores~~ to a community health board must be approved by the commissioner and is subject to subdivision 3.

Sec. 14. Minnesota Statutes 2018, section 28A.08, subdivision 3, is amended to read:

Subd. 3. **Fees effective July 1, 2003.**

| Type of food handler | License Fee Effective July 1, 2003 | Penalties | |
|---|--|--------------|------------|
| | | Late Renewal | No License |
| 1. Retail food handler <u>or custom exempt food handler</u> | | | |
| (a) Having gross sales of only prepackaged nonperishable food of less than \$15,000 for the immediately previous license or fiscal year and filing a statement with the commissioner | \$50 | \$17 | \$33 |
| (b) Having under \$15,000 gross sales or service including food preparation or having \$15,000 to \$50,000 gross sales or service for the immediately previous license or fiscal year | \$77 | \$25 | \$51 |
| (c) Having \$50,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year | \$155 | \$51 | \$102 |
| (d) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year | \$276 | \$91 | \$182 |
| (e) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year | \$799 | \$264 | \$527 |
| (f) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,162 | \$383 | \$767 |
| (g) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,376 | \$454 | \$908 |
| (h) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,607 | \$530 | \$1,061 |
| (i) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,847 | \$610 | \$1,219 |
| (j) Having over \$25,000,001 gross sales or service for the immediately previous license or fiscal year | \$2,001 | \$660 | \$1,321 |
| 2. Wholesale food handler | | | |
| (a) Having gross sales or service of less than \$25,000 for the immediately previous license or fiscal year | \$57 | \$19 | \$38 |
| (b) Having \$25,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year | \$284 | \$94 | \$187 |
| (c) Having \$250,001 to \$1,000,000 gross sales or service from a mobile unit without a separate food facility for the immediately previous license or fiscal year | \$444 | \$147 | \$293 |
| (d) Having \$250,001 to \$1,000,000 gross sales or service not covered under paragraph (c) for the immediately previous license or fiscal year | \$590 | \$195 | \$389 |
| (e) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year | \$769 | \$254 | \$508 |

| | | | |
|---|---------|-------|---------|
| (f) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year | \$920 | \$304 | \$607 |
| (g) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year | \$990 | \$327 | \$653 |
| (h) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,156 | \$381 | \$763 |
| (i) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,329 | \$439 | \$877 |
| (j) Having over \$25,000,001 or more gross sales or service for the immediately previous license or fiscal year | \$1,502 | \$496 | \$991 |
| 3. Food broker | \$150 | \$50 | \$99 |
| 4. Wholesale food processor or manufacturer | | | |
| (a) Having gross sales or service of less than \$125,000 for the immediately previous license or fiscal year | \$169 | \$56 | \$112 |
| (b) Having \$125,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year | \$392 | \$129 | \$259 |
| (c) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year | \$590 | \$195 | \$389 |
| (d) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year | \$769 | \$254 | \$508 |
| (e) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year | \$920 | \$304 | \$607 |
| (f) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,377 | \$454 | \$909 |
| (g) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,608 | \$531 | \$1,061 |
| (h) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,849 | \$610 | \$1,220 |
| (i) Having \$25,000,001 to \$50,000,000 gross sales or service for the immediately previous license or fiscal year | \$2,090 | \$690 | \$1,379 |
| (j) Having \$50,000,001 to \$100,000,000 gross sales or service for the immediately previous license or fiscal year | \$2,330 | \$769 | \$1,538 |
| (k) Having \$100,000,000 or more gross sales or service for the immediately previous license or fiscal year | \$2,571 | \$848 | \$1,697 |
| 5. Wholesale food processor of meat or poultry products under supervision of the U.S. Department of Agriculture | | | |
| (a) Having gross sales or service of less than \$125,000 for the immediately previous license or fiscal year | \$112 | \$37 | \$74 |
| (b) Having \$125,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year | \$214 | \$71 | \$141 |
| (c) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year | \$333 | \$110 | \$220 |
| (d) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year | \$425 | \$140 | \$281 |
| (e) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year | \$521 | \$172 | \$344 |

| | | | |
|---|---------|-------|-------|
| (f) Having over \$10,000,001 gross sales or service for the immediately previous license or fiscal year | \$765 | \$252 | \$505 |
| (g) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year | \$893 | \$295 | \$589 |
| (h) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,027 | \$339 | \$678 |
| (i) Having \$25,000,001 to \$50,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,161 | \$383 | \$766 |
| (j) Having \$50,000,001 to \$100,000,000 gross sales or service for the immediately previous license or fiscal year | \$1,295 | \$427 | \$855 |
| (k) Having \$100,000,001 or more gross sales or service for the immediately previous license or fiscal year | \$1,428 | \$471 | \$942 |
| 6. Wholesale food processor or manufacturer operating only at the State Fair | \$125 | \$40 | \$50 |
| 7. Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota Farmstead cheese | \$30 | \$10 | \$15 |
| 8. Wholesale food manufacturer processing less than 700,000 pounds per year of raw milk | \$30 | \$10 | \$15 |
| 9. A milk marketing organization without facilities for processing or manufacturing that purchases milk from milk producers for delivery to a licensed wholesale food processor or manufacturer | \$50 | \$15 | \$25 |

Sec. 15. Minnesota Statutes 2018, section 29.26, is amended to read:

29.26 EGGS IN POSSESSION OF RETAILER.

All eggs sold or offered for sale at retail must have been candled and graded and must be clearly labeled according to Minnesota consumer grades as established by rule under section 29.23. No eggs shall be sold or offered for sale as "ungraded," "unclassified," or by any other name that does not clearly designate the grade. All eggs in possession of the retailer, either in temporary storage or on display, must be held at a temperature not to exceed 45 degrees Fahrenheit (7 degrees Celsius).

~~Candled and graded~~ Grade AA eggs held 31 days past the coded pack date for Grade AA eggs, or Grade A eggs held 46 days past the coded pack date for Grade A eggs, lose their grades and must be removed from sale.

Sec. 16. Minnesota Statutes 2018, section 31.94, is amended to read:

31.94 ORGANIC AGRICULTURE; COMMISSIONER DUTIES.

(a) In order to promote opportunities for organic agriculture in Minnesota, the commissioner shall:

(1) survey producers and support services and organizations to determine information and research needs in the area of organic agriculture practices;

(2) work with the University of Minnesota and other research and education institutions to demonstrate the on-farm applicability of organic agriculture practices to conditions in this state;

(3) direct the programs of the department so as to work toward the promotion of organic agriculture in this state;

(4) inform agencies about state or federal programs that support organic agriculture practices; and

(5) work closely with producers, producer organizations, the University of Minnesota, and other appropriate agencies and organizations to identify opportunities and needs as well as ensure coordination and avoid duplication of state agency efforts regarding research, teaching, marketing, and extension work relating to organic agriculture.

(b) By November 15 of each year that ends in a zero or a five, the commissioner, in conjunction with the task force created in paragraph (c), shall report on the status of organic agriculture in Minnesota to the legislative policy and finance committees and divisions with jurisdiction over agriculture. The report must include available data on organic acreage and production, available data on the sales or market performance of organic products, and recommendations regarding programs, policies, and research efforts that will benefit Minnesota's organic agriculture sector.

(c) A Minnesota Organic Advisory Task Force shall advise the commissioner and the University of Minnesota on policies and programs that will improve organic agriculture in Minnesota, including how available resources can most effectively be used for outreach, education, research, and technical assistance that meet the needs of the organic agriculture sector. The task force must consist of the following residents of the state:

(1) three organic farmers;

(2) one wholesaler or distributor of organic products;

(3) one representative of organic certification agencies;

(4) two organic processors;

(5) one representative from University of Minnesota Extension;

(6) one University of Minnesota faculty member;

(7) one representative from a nonprofit organization representing producers;

(8) two public members;

(9) one representative from the United States Department of Agriculture;

(10) one retailer of organic products; and

(11) one organic consumer representative.

The commissioner, in consultation with the director of the Minnesota Agricultural Experiment Station; the dean and director of University of Minnesota Extension and the dean of the College of Food, Agricultural and Natural Resource Sciences, shall appoint members to serve three-year terms.

Compensation and removal of members are governed by section 15.059, subdivision 6. The task force must meet at least twice each year and expires on June 30, ~~2019~~ 2024.

(d) For the purposes of expanding, improving, and developing production and marketing of the organic products of Minnesota agriculture, the commissioner may receive funds from state and federal sources and spend them, including through grants or contracts, to assist producers and processors to achieve certification, to conduct education or marketing activities, to enter into research and development partnerships, or to address production or marketing obstacles to the growth and well-being of the industry.

(e) The commissioner may facilitate the registration of state organic production and handling operations including those exempt from organic certification according to Code of Federal Regulations, title 7, section 205.101, and accredited certification agencies operating within the state.

Sec. 17. Minnesota Statutes 2018, section 32D.13, is amended by adding a subdivision to read:

Subd. 11. **Milk storage requirement.** (a) A milk hauler must not pick up milk from a farm that has a bulk tank that is not in proper working order.

(b) Milk must not be stored for longer than 72 hours at a farm before the milk is picked up by a milk hauler for transport to a plant. The commissioner or an agent of the commissioner may waive the 72-hour time limit in the case of hardship, emergency, or natural disaster.

Sec. 18. Minnesota Statutes 2018, section 32D.20, subdivision 2, is amended to read:

Subd. 2. **Labels.** (a) Pasteurized milk or fluid milk products offered or exposed for sale or held in possession for sale shall be labeled or otherwise designated as pasteurized milk or pasteurized fluid milk products, and in the case of fluid milk products the label shall also state the name of the specific product.

(b) Milk and dairy products must be labeled (1) with the plant number where the product was produced; or (2) if produced in a state where official plant numbers are not assigned, with the name and address of the manufacturer and the address of the plant where it was manufactured or distributor.

Sec. 19. Minnesota Statutes 2018, section 32D.22, is amended to read:

32D.22 MANUFACTURE OF CHEESE; REQUIREMENTS IN PROCESS.

(a) No person, firm, or corporation shall manufacture, transport, sell, offer, or expose for sale or have in possession with intent to sell at retail to a consumer any cheese that has not been (1) manufactured from milk or milk products that have been pasteurized; (2) subjected to a heat treatment equivalent to pasteurization during the process of manufacturing or processing; or (3) subjected to an aging process where it has been kept for at least 60 days after manufacture at a temperature no lower than 35 degrees Fahrenheit.

(b) Any cheese described in paragraph (a), clause (3), that has been made from unpasteurized milk must be labeled with a statement that the cheese has been aged for 60 days or more.

Sec. 20. Minnesota Statutes 2018, section 34A.11, subdivision 7, is amended to read:

Subd. 7. **Emergency powers.** After an emergency declaration issued under chapter 12, chapter 35, or the federal Stafford Act, the commissioner may restrict the movement of food if the commissioner has probable cause to believe that the movement of food may: threaten the agricultural economy; transport a dangerous, infectious, or communicable disease; or threaten the health of animals. The commissioner may provide for the issuance of permits to allow for the continued movement of food upon meeting the ~~disease~~ control measures established by the commissioner.

Sec. 21. Minnesota Statutes 2018, section 41B.02, subdivision 10a, is amended to read:

Subd. 10a. **Livestock expansion.** "Livestock expansion" means the purchase of a livestock farm or improvements to a livestock operation, including the purchase and construction or installation of improvements to land, buildings, and other permanent structures, including equipment incorporated in or permanently affixed to the land, buildings, or structures, which are useful for and intended to be used for the purpose of raising livestock.

Sec. 22. Minnesota Statutes 2018, section 41B.03, subdivision 3, is amended to read:

Subd. 3. **Eligibility for beginning farmer loans.** (a) In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$800,000 in 2017 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first three years of the loan, if an approved program is available within 45 miles from the borrower's residence. ~~The commissioner~~ authority may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and has ~~either~~ a four-year degree in an agricultural program or related field, reasonable agricultural job-related experience, or certification as an adult farm management instructor; and

(8) agree to file an approved soil and water conservation plan with the Natural Resources Conservation Service office in the county where the land is located.

(b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is subject to penalty as determined by the authority.

Sec. 23. Minnesota Statutes 2018, section 41B.0391, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Agricultural assets" means agricultural land, livestock, facilities, buildings, and machinery used for farming in Minnesota.

(c) "Beginning farmer" means an individual who:

(1) is a resident of Minnesota;

(2) is seeking entry, or has entered within the last ten years, into farming;

(3) intends to farm land located within the state borders of Minnesota;

(4) is not and whose spouse is not a family member of the owner of the agricultural assets from whom the beginning farmer is seeking to purchase or rent agricultural assets;

(5) is not and whose spouse is not a family member of a partner, member, shareholder, or trustee of the owner of agricultural assets from whom the beginning farmer is seeking to purchase or rent agricultural assets; and

(6) meets the following eligibility requirements as determined by the authority:

(i) has a net worth that does not exceed the limit provided under section 41B.03, subdivision 3, paragraph (a), clause (2);

(ii) provides the majority of the day-to-day physical labor and management of the farm;

(iii) has, by the judgment of the authority, adequate farming experience or demonstrates knowledge in the type of farming for which the beginning farmer seeks assistance from the authority;

(iv) demonstrates to the authority a profit potential by submitting projected earnings statements;

(v) asserts to the satisfaction of the authority that farming will be a significant source of income for the beginning farmer;

(vi) ~~participates in~~ is enrolled in or has completed within ten years of their first year of farming a financial management program approved by the authority or the commissioner of agriculture;

(vii) agrees to notify the authority if the beginning farmer no longer meets the eligibility requirements within the three-year certification period, in which case the beginning farmer is no longer eligible for credits under this section; and

(viii) has other qualifications as specified by the authority.

The authority may waive the requirement in item (vi) if the participant requests a waiver and has a four-year degree in an agricultural program or related field, reasonable agricultural job-related experience, or certification as an adult farm management instructor.

(d) "Family member" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

(e) "Farm product" means plants and animals useful to humans and includes, but is not limited to, forage and sod crops, oilseeds, grain and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, and vegetables.

(f) "Farming" means the active use, management, and operation of real and personal property for the production of a farm product.

(g) "Owner of agricultural assets" means an individual, trust, or pass-through entity that is the owner in fee of agricultural land or has legal title to any other agricultural asset. Owner of agricultural assets does not mean an equipment dealer, livestock dealer defined in section 17A.03, subdivision 7, or comparable entity that is engaged in the business of selling agricultural assets for profit and that is not engaged in farming as its primary business

activity. An owner of agricultural assets approved and certified by the authority under subdivision 4 must notify the authority if the owner no longer meets the definition in this paragraph within the three year certification period and is then no longer eligible for credits under this section.

(h) "Resident" has the meaning given in section 290.01, subdivision 7.

(i) "Share rent agreement" means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products produced from the rented agricultural assets and which provides for sharing production costs or risk of loss, or both.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2018.

Sec. 24. Minnesota Statutes 2018, section 41B.049, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The authority shall establish and implement a methane digester loan program to help finance the purchase of necessary equipment and the construction or improvement of a system that ~~will utilize~~ utilizes manure to produce electricity.

Sec. 25. Minnesota Statutes 2018, section 41B.049, subdivision 5, is amended to read:

Subd. 5. **Loan criteria.** (a) To be eligible, a borrower must be a resident of Minnesota or an entity that is not prohibited from owning agricultural land under section 500.24.

(b) State participation in a participation loan is limited to 45 percent of the principal amount of the loan. A direct loan or loan participation may not exceed \$250,000.

(c) Loans under this program may be used as a match for federal loans or grants.

(d) A borrower who has previously received a loan under subdivision 1 ~~is prohibited from receiving~~ may receive another methane digester loan under subdivision 1 if the previous loan has been repaid in full.

Sec. 26. Minnesota Statutes 2018, section 41B.055, subdivision 3, is amended to read:

Subd. 3. **Loans.** (a) The authority may participate in a livestock equipment loan equal to 90 percent of the purchased equipment value with an eligible lender to a farmer who is eligible under subdivision 2. Participation is limited to 45 percent of the principal amount of the loan or ~~\$40,000~~ \$100,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may differ from the interest rates and repayment terms of the lender's retained portion of the loan, but the authority's interest rate must not exceed three percent. The authority may review the interest annually and make adjustments as necessary.

(b) Standards for loan amortization must be set by the Rural Finance Authority and must not exceed ten years.

(c) Security for a livestock equipment loan must be a personal note executed by the borrower and whatever other security is required by the eligible lender or the authority.

(d) Refinancing of existing debt is not an eligible purpose.

(e) The authority may impose a reasonable, nonrefundable application fee for a livestock equipment loan. The authority may review the fee annually and make adjustments as necessary. The initial application fee is \$50. Application fees received by the authority must be deposited in the Rural Finance Authority administrative account established in section 41B.03.

(f) Loans under this program must be made using money in the revolving loan account established in section 41B.06.

Sec. 27. Minnesota Statutes 2018, section 41B.057, subdivision 3, is amended to read:

Subd. 3. **Loan participation.** The authority may participate in a farm opportunity loan with an eligible lender, as defined in section 41B.02, subdivision 8, to a farmer or a group of farmers on joint projects who are eligible under subdivision 2, paragraph (c), and who are actively engaged in farming. Participation is limited to 45 percent of the principal amount of the loan or ~~\$45,000~~ \$100,000 per individual, whichever is less. For loans to a group made up of four or more individuals, participation is limited to 45 percent of the principal amount of the loan or ~~\$180,000~~ \$250,000, whichever is less. The interest rate on the loans must not exceed six percent.

Sec. 28. Minnesota Statutes 2018, section 116.0714, is amended to read:

116.0714 NEW OPEN-AIR SWINE BASINS.

(a) The commissioner of the Pollution Control Agency or a county board shall not approve any permits for the construction of new open-air swine basins, except that existing facilities may use one basin of less than 1,000,000 gallons as part of a permitted waste treatment program for resolving pollution problems or to allow conversion of an existing basin of less than 1,000,000 gallons to a different animal type, provided all standards are met. This section expires June 30, 2022.

(b) This section does not apply to basins used solely for wastewater from truck-washing facilities."

Delete the title and insert:

"A bill for an act relating to agriculture; making policy and technical changes to various agriculture provisions including provisions related to aquaculture, pesticides, nursery law, food handlers, eggs, milk, cheese, food, loans, open-air swine basins, and other provisions; extending the Organic Advisory Task Force; amending Minnesota Statutes 2018, sections 17.494; 17.4982, by adding subdivisions; 18B.34, subdivision 5; 18H.10; 25.33, subdivision 8; 28A.04, subdivision 1; 28A.05; 28A.075; 28A.0752, subdivisions 1, 2; 28A.08, subdivision 3; 29.26; 31.94; 32D.13, by adding a subdivision; 32D.20, subdivision 2; 32D.22; 34A.11, subdivision 7; 41B.02, subdivision 10a; 41B.03, subdivision 3; 41B.0391, subdivision 1; 41B.049, subdivisions 1, 5; 41B.055, subdivision 3; 41B.057, subdivision 3; 116.0714; proposing coding for new law in Minnesota Statutes, chapter 17."

We request the adoption of this report and repassage of the bill.

House Conferees: JEANNE POPPE, SAMANTHA VANG and PAUL ANDERSON.

Senate Conferees: BILL WEBER, MICHAEL P. GOGGIN and FOUNG HAWJ.

Poppe moved that the report of the Conference Committee on H. F. No. 1733 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 1733, A bill for an act relating to agriculture; making policy and technical changes to various agricultural provisions including provisions related to hemp, food handlers, eggs, milk, cheese, bioincentive programs, loan programs, pesticides, nursery stock, open-air swine basins, and other agriculture provisions; amending Minnesota Statutes 2018, sections 18B.02; 18H.10; 18K.02, subdivision 3; 18K.06; 25.33, subdivision 8;

28A.04, subdivision 1; 28A.05; 28A.075; 28A.0752, subdivisions 1, 2; 28A.08, subdivision 3; 29.26; 31.94; 32D.13, by adding a subdivision; 32D.20, subdivision 2; 32D.22; 34A.11, subdivision 7; 41A.15, subdivisions 2, 10, by adding a subdivision; 41A.16, subdivisions 1, 2, 4; 41A.17, subdivisions 1, 2, 3; 41A.18, subdivisions 1, 2, 3; 41B.02, subdivision 10a; 41B.03, subdivision 3; 41B.0391, subdivision 1; 41B.049, subdivisions 1, 5; 41B.055, subdivision 3; 41B.057, subdivision 3; 116.0714; repealing Minnesota Statutes 2018, section 41A.15, subdivisions 2a, 2b.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|------------|-----------------|------------|------------|--------------|
| Acomb | Demuth | Hausman | Lillie | Nelson, N. | Schomacker |
| Albright | Dettmer | Heinrich | Lippert | Neu | Schultz |
| Baker | Drazkowski | Heintzeman | Lislegard | Noor | Scott |
| Bahner | Ecklund | Her | Loeffler | Nornes | Stephenson |
| Bahr | Edelson | Hertaus | Long | O'Driscoll | Sundin |
| Baker | Elkins | Hornstein | Lucero | Olson | Swedzinski |
| Becker-Finn | Erickson | Howard | Lueck | O'Neill | Tabke |
| Bennett | Fabian | Huot | Mahoney | Pelowski | Theis |
| Bernardy | Fischer | Johnson | Mann | Persell | Torkelson |
| Bierman | Franson | Jurgens | Mariani | Petersburg | Urdahl |
| Boe | Freiberg | Kiel | Marquart | Pierson | Vang |
| Brand | Garofalo | Klevorn | Masin | Pinto | Vogel |
| Cantrell | Gomez | Koegel | McDonald | Poppe | Wagenius |
| Carlson, A. | Green | Kotyza-Witthuhn | Mekeland | Poston | Wazlawik |
| Carlson, L. | Grossell | Koznick | Miller | Pryor | Winkler |
| Christensen | Gruenhagen | Kresha | Moller | Quam | Wolgamott |
| Clafflin | Gunther | Kunesh-Podein | Moran | Richardson | Xiong, J. |
| Considine | Haley | Layman | Morrison | Robbins | Xiong, T. |
| Daniels | Halverson | Lee | Munson | Runbeck | Youakim |
| Daudt | Hamilton | Lesch | Murphy | Sandell | Zerwas |
| Davids | Hansen | Liebling | Nash | Sandstede | Spk. Hortman |
| Davnie | Hassan | Lien | Nelson, M. | Sauke | |

The bill was repassed, as amended by Conference, and its title agreed to.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Winkler from the Committee on Rules and Legislative Administration, pursuant to rules 1.21 and 3.33, designated the following bills to be placed on the Calendar for the Day for Saturday, May 18, 2019 and established a prefiling requirement for amendments offered to the following bills:

H. F. Nos. 2822, 2821 and 2311; and S. F. No. 2081.

CALENDAR FOR THE DAY

S. F. No. 1753, A bill for an act relating to public safety; authorizing peace officers to issue citations based on report from work zone flagger; amending Minnesota Statutes 2018, section 169.06, subdivision 4a.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 90 yeas and 37 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|-----------|-----------------|------------|------------|--------------|
| Acomb | Dettmer | Howard | Loeffler | Olson | Sundin |
| Bahner | Ecklund | Huot | Long | O'Neill | Tabke |
| Becker-Finn | Edelson | Jurgens | Lueck | Pelowski | Theis |
| Bennett | Elkins | Klevorn | Mahoney | Persell | Torkelson |
| Bernardy | Fischer | Koegel | Mann | Petersburg | Urdahl |
| Bierman | Freiberg | Kotzya-Witthuhn | Mariani | Pinto | Vang |
| Brand | Gomez | Koznick | Marquart | Poppe | Wagenius |
| Cantrell | Grossell | Kunesh-Podein | Masin | Pryor | Wazlawik |
| Carlson, A. | Gunther | Lee | Miller | Quam | Winkler |
| Carlson, L. | Halverson | Lesch | Moller | Richardson | Wolgamott |
| Christensen | Hansen | Liebling | Morrison | Sandell | Xiong, J. |
| Clafin | Hassan | Lien | Murphy | Sandstede | Xiong, T. |
| Considine | Hausman | Lillie | Nelson, M. | Sauke | Youakim |
| Davnie | Her | Lippert | Noor | Schultz | Zerwas |
| Demuth | Hornstein | Lislegard | Nornes | Stephenson | Spk. Hortman |

Those who voted in the negative were:

| | | | | | |
|----------|------------|------------|------------|------------|------------|
| Albright | Drazkowski | Hamilton | Layman | O'Driscoll | Swedzinski |
| Backer | Erickson | Heinrich | Lucero | Pierson | Vogel |
| Bahr | Fabian | Heintzeman | Mekeland | Poston | |
| Baker | Franson | Hertaus | Munson | Robbins | |
| Daniels | Garofalo | Johnson | Nash | Runbeck | |
| Daudt | Green | Kiel | Nelson, N. | Schomacker | |
| Davids | Gruenhagen | Kresha | Neu | Scott | |

The bill was passed and its title agreed to.

H. F. No. 359, A bill for an act relating to health; prohibiting the use of certain flame-retardant chemicals in certain products; allowing certain exemptions; amending Minnesota Statutes 2018, section 325F.071; proposing coding for new law in Minnesota Statutes, chapter 325F.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 5 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|-------------|----------|------------|------------|-----------|
| Acomb | Boe | Daudt | Fabian | Gunther | Her |
| Albright | Brand | Davids | Fischer | Haley | Hornstein |
| Backer | Cantrell | Davnie | Franson | Halverson | Howard |
| Bahner | Carlson, A. | Demuth | Freiberg | Hamilton | Huot |
| Baker | Carlson, L. | Dettmer | Garofalo | Hansen | Johnson |
| Becker-Finn | Christensen | Ecklund | Gomez | Hassan | Jurgens |
| Bennett | Clafin | Edelson | Green | Hausman | Kiel |
| Bernardy | Considine | Elkins | Grossell | Heinrich | Klevorn |
| Bierman | Daniels | Erickson | Gruenhagen | Heintzeman | Koegel |

| | | | | | |
|-----------------|----------|------------|------------|------------|--------------|
| Kotzya-Witthuhn | Loeffler | Morrison | Persell | Sandstede | Vang |
| Koznick | Long | Murphy | Petersburg | Sauke | Vogel |
| Kresha | Lueck | Nash | Pierson | Schomacker | Wagenius |
| Kunesh-Podein | Mahoney | Nelson, M. | Pinto | Schultz | Wazlawik |
| Layman | Mann | Nelson, N. | Poppe | Scott | Winkler |
| Lee | Mariani | Neu | Poston | Stephenson | Wolgamott |
| Lesch | Marquart | Noor | Pryor | Sundin | Xiong, J. |
| Liebling | Masin | Nornes | Quam | Swedzinski | Xiong, T. |
| Lien | McDonald | O'Driscoll | Richardson | Tabke | Youakim |
| Lillie | Mekeland | Olson | Robbins | Theis | Zerwas |
| Lippert | Moller | O'Neill | Runbeck | Torkelson | Spk. Hortman |
| Lislegard | Moran | Pelowski | Sandell | Urdahl | |

Those who voted in the negative were:

| | | | | |
|------|------------|--------|--------|--------|
| Bahr | Draskowski | Lucero | Miller | Munson |
|------|------------|--------|--------|--------|

The bill was passed and its title agreed to.

S. F. No. 322, A bill for an act relating to human services; directing the commissioner of human services to allow a certain medical assistance waiver customized living services provider to transfer capacity to up to three other housing with services settings located in Hennepin County.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 2 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|------------|-----------------|------------|------------|--------------|
| Acomb | Dettmer | Heinrich | Lippert | Noor | Scott |
| Albright | Draskowski | Heintzeman | Lislegard | Nornes | Stephenson |
| Backer | Ecklund | Her | Long | O'Driscoll | Sundin |
| Bahner | Edelson | Hertaus | Lucero | Olson | Swedzinski |
| Bahr | Elkins | Hornstein | Lueck | O'Neill | Tabke |
| Baker | Erickson | Howard | Mahoney | Pelowski | Theis |
| Becker-Finn | Fabian | Huot | Mann | Persell | Torkelson |
| Bennett | Fischer | Johnson | Mariani | Petersburg | Urdahl |
| Bernardy | Franson | Jurgens | Marquart | Pierson | Vang |
| Bierman | Freiberg | Kiel | Masin | Pinto | Vogel |
| Boe | Garofalo | Klevorn | McDonald | Poppe | Wagenius |
| Brand | Gomez | Koegel | Mekeland | Poston | Wazlawik |
| Cantrell | Green | Kotzya-Witthuhn | Miller | Pryor | Winkler |
| Carlson, A. | Grossell | Koznick | Moller | Quam | Wolgamott |
| Carlson, L. | Gruenhagen | Kresha | Moran | Richardson | Xiong, J. |
| Christensen | Gunther | Kunesh-Podein | Morrison | Robbins | Xiong, T. |
| Clafin | Haley | Layman | Munson | Runbeck | Youakim |
| Considine | Halverson | Lee | Murphy | Sandell | Zerwas |
| Daniels | Hamilton | Lesch | Nash | Sandstede | Spk. Hortman |
| Daudt | Hansen | Liebling | Nelson, M. | Sauke | |
| Davnie | Hassan | Lien | Nelson, N. | Schomacker | |
| Demuth | Hausman | Lillie | Neu | Schultz | |

Those who voted in the negative were:

Davids Loeffler

The bill was passed and its title agreed to.

S. F. No. 1618, A bill for an act relating to transportation; designating a portion of marked Trunk Highway 25 as Captain Jeffrey Vollmer Memorial Highway; amending Minnesota Statutes 2018, section 161.14, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|------------|-----------------|------------|------------|--------------|
| Acomb | Demuth | Hausman | Lillie | Nelson, N. | Schomacker |
| Albright | Dettmer | Heinrich | Lippert | Neu | Schultz |
| Backer | Drazkowski | Heintzeman | Lislegard | Noor | Scott |
| Bahner | Ecklund | Her | Loeffler | Nornes | Stephenson |
| Bahr | Edelson | Hertaus | Long | O'Driscoll | Sundin |
| Baker | Elkins | Hornstein | Lucero | Olson | Swedzinski |
| Becker-Finn | Erickson | Howard | Lueck | O'Neill | Tabke |
| Bennett | Fabian | Huot | Mahoney | Pelowski | Theis |
| Bernardy | Fischer | Johnson | Mann | Persell | Torkelson |
| Bierman | Franson | Jurgens | Mariani | Petersburg | Urdahl |
| Boe | Freiberg | Kiel | Marquart | Pierson | Vang |
| Brand | Garofalo | Klevorn | Masin | Pinto | Vogel |
| Cantrell | Gomez | Koegel | McDonald | Poppe | Wagenius |
| Carlson, A. | Green | Kotyza-Witthuhn | Mekeland | Poston | Wazlawik |
| Carlson, L. | Grossell | Koznick | Miller | Pryor | Winkler |
| Christensen | Gruenhagen | Kresha | Moller | Quam | Wolgamott |
| Clafin | Gunther | Kunesh-Podein | Moran | Richardson | Xiong, J. |
| Considine | Haley | Layman | Morrison | Robbins | Xiong, T. |
| Daniels | Halverson | Lee | Munson | Runbeck | Youakim |
| Daudt | Hamilton | Lesch | Murphy | Sandell | Zerwas |
| Davids | Hansen | Liebling | Nash | Sandstede | Spk. Hortman |
| Davnie | Hassan | Lien | Nelson, M. | Sauke | |

The bill was passed and its title agreed to.

MOTIONS AND RESOLUTIONS

Kiel moved that her name be stricken as an author on H. F. No. 286. The motion prevailed.

Becker-Finn moved that the name of Wazlawik be added as an author on H. F. No. 359. The motion prevailed.

Franson moved that the name of Bahr be added as an author on H. F. No. 445. The motion prevailed.

Hausman moved that the name of Bernardy be added as an author on H. F. No. 2822. The motion prevailed.

Winkler moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Halverson.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2604, A bill for an act relating to human services; requiring a report on the cost of producing legislatively mandated reports.

Reported the same back with the recommendation that the bill be placed on the General Register.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

S. F. No. 1257, A bill for an act relating to health care; authorizing the use of epinephrine auto-injectors by certain individuals who complete a training program; amending Minnesota Statutes 2018, section 144.999.

Reported the same back with the recommendation that the bill be placed on the General Register.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. No. 2604 was read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 1257 was read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1733, A bill for an act relating to agriculture; making policy and technical changes to various agricultural provisions including provisions related to hemp, food handlers, eggs, milk, cheese, bioincentive programs, loan programs, pesticides, nursery stock, open-air swine basins, and other agriculture provisions; amending Minnesota Statutes 2018, sections 18B.02; 18H.10; 18K.02, subdivision 3; 18K.06; 25.33, subdivision 8; 28A.04, subdivision 1; 28A.05; 28A.075; 28A.0752, subdivisions 1, 2; 28A.08, subdivision 3; 29.26; 31.94; 32D.13, by adding a subdivision; 32D.20, subdivision 2; 32D.22; 34A.11, subdivision 7; 41A.15, subdivisions 2, 10, by adding a subdivision; 41A.16, subdivisions 1, 2, 4; 41A.17, subdivisions 1, 2, 3; 41A.18, subdivisions 1, 2, 3; 41B.02, subdivision 10a; 41B.03, subdivision 3; 41B.0391, subdivision 1; 41B.049, subdivisions 1, 5; 41B.055, subdivision 3; 41B.057, subdivision 3; 116.0714; repealing Minnesota Statutes 2018, section 41A.15, subdivisions 2a, 2b.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

CAL R. LUDEMAN, Secretary of the Senate

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 278.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

CAL R. LUDEMAN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 278

A bill for an act relating to health care; creating licensure and regulations for pharmacy benefit managers; appropriating money; amending Minnesota Statutes 2018, section 151.21, subdivision 7, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 62W; repealing Minnesota Statutes 2018, sections 151.214, subdivision 2; 151.60; 151.61; 151.62; 151.63; 151.64; 151.65; 151.66; 151.67; 151.68; 151.69; 151.70; 151.71.

May 15, 2019

The Honorable Jeremy R. Miller
President of the Senate

The Honorable Melissa Hortman
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 278 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 278 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[62W.01] CITATION.**

This chapter may be cited as the "Minnesota Pharmacy Benefit Manager Licensure and Regulation Act."

Sec. 2. **[62W.02] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this chapter, the following terms have the meanings given.

Subd. 2. **Aggregate retained rebate.** "Aggregate retained rebate" means the percentage of all rebates received by a pharmacy benefit manager from a drug manufacturer for drug utilization that is not passed on to the pharmacy benefit manager's client.

Subd. 3. **Claims processing service.** "Claims processing service" means the administrative services performed in connection with the processing and adjudicating of claims relating to pharmacy services that includes:

(1) receiving payments for pharmacy services;

(2) making payments to pharmacists or pharmacies for pharmacy services; or

(3) both clause (1) and clause (2).

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Enrollee.** "Enrollee" means a natural person covered by a health plan and includes an insured, policyholder, subscriber, contract holder, member, covered person, or certificate holder.

Subd. 6. **Health carrier.** "Health carrier" has the meaning given in section 62A.011, subdivision 2.

Subd. 7. **Health plan.** "Health plan" means a policy, contract, certificate, or agreement defined in section 62A.011, subdivision 3.

Subd. 8. **Mail order pharmacy.** "Mail order pharmacy" means a pharmacy whose primary business is to receive prescriptions by mail, fax, or through electronic submissions, dispense prescription drugs to enrollees through the use of the United States mail or other common carrier services, and provide consultation with patients electronically rather than face-to-face.

Subd. 9. **Maximum allowable cost price.** "Maximum allowable cost price" means the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for a group of therapeutically and pharmaceutically equivalent multiple source drugs. The maximum allowable cost price does not include a dispensing or professional fee.

Subd. 10. **Multiple source drugs.** "Multiple source drugs" means a therapeutically equivalent drug that is available from at least two manufacturers.

Subd. 11. **Network pharmacy.** "Network pharmacy" means a retail or other licensed pharmacy provider that directly contracts with a pharmacy benefit manager.

Subd. 12. **Other prescription drug or device services.** "Other prescription drug or device services" means services other than claims processing services, provided directly or indirectly, whether in connection with or separate from claims processing services, including:

- (1) negotiating rebates, discounts, or other financial incentives and arrangements with drug manufacturers;
- (2) disbursing or distributing rebates;
- (3) managing or participating in incentive programs or arrangements for pharmacy services;
- (4) negotiating or entering into contractual arrangements with pharmacists or pharmacies, or both;
- (5) developing prescription drug formularies;
- (6) designing prescription benefit programs; or
- (7) advertising or promoting services.

Subd. 13. **Pharmacist.** "Pharmacist" means an individual with a valid license issued by the Board of Pharmacy under chapter 151.

Subd. 14. **Pharmacy.** "Pharmacy" or "pharmacy provider" means a place of business licensed by the Board of Pharmacy under chapter 151 in which prescription drugs are prepared, compounded, or dispensed under the supervision of a pharmacist.

Subd. 15. **Pharmacy benefit manager.** (a) "Pharmacy benefit manager" means a person, business, or other entity that contracts with a plan sponsor to perform pharmacy benefits management, including but not limited to:

- (1) contracting directly or indirectly with pharmacies to provide prescription drugs to enrollees or other covered individuals;
- (2) administering a prescription drug benefit;
- (3) processing or paying pharmacy claims;
- (4) creating or updating prescription drug formularies;
- (5) making or assisting in making prior authorization determinations on prescription drugs;
- (6) administering rebates on prescription drugs; or

(7) establishing a pharmacy network.

(b) Pharmacy benefit manager does not include the Department of Human Services.

Subd. 16. **Plan sponsor.** "Plan sponsor" means a group purchaser as defined under section 62J.03; an employer in the case of an employee health benefit plan established or maintained by a single employer; or an employee organization in the case of a health plan established or maintained by an employee organization, an association, joint board trustees, a committee, or other similar group that establishes or maintains the health plan. This term includes a person or entity acting for a pharmacy benefit manager in a contractual or employment relationship in the performance of pharmacy benefit management. Plan sponsor does not include the Department of Human Services.

Subd. 17. **Specialty drug.** "Specialty drug" means a prescription drug that:

(1) cannot be routinely dispensed at a majority of retail pharmacies;

(2) is used to treat chronic and complex, or rare medical conditions;

(3) has special storage, handling, or distribution requirements that typically cannot be met by a retail pharmacy; and

(4) meets at least three of the following criteria:

(i) requires complex and extended patient education and counseling;

(ii) requires intensive monitoring;

(iii) requires clinical oversight; and

(iv) requires product support services.

Subd. 18. **Retail pharmacy.** "Retail pharmacy" means a chain pharmacy, a supermarket pharmacy, an independent pharmacy, or a network of independent pharmacies, licensed under chapter 151, that dispenses prescription drugs to the public.

Subd. 19. **Rebates.** "Rebates" means all price concessions paid by a drug manufacturer to a pharmacy benefit manager or plan sponsor, including discounts and other price concessions that are based on the actual or estimated utilization of a prescription drug. Rebates also include price concessions based on the effectiveness of a prescription drug as in a value-based or performance-based contract.

Subd. 20. **Specialty pharmacy.** "Specialty pharmacy" means a pharmacy that specializes in dispensing specialty drugs for patients with serious health conditions requiring complex therapies and high cost biotech and injectable medications. A pharmacy benefit manager or health carrier may require a specialty pharmacy to be accredited as a specialty pharmacy from one of the following accrediting organizations:

(1) Utilization Review Accreditation Commission (URAC);

(2) Accreditation Commissioner for Health Care, Inc.; or

(3) Joint Accreditation Commission.

Sec. 3. **[62W.03] LICENSE TO DO BUSINESS.**

Subdivision 1. **General.** (a) Beginning January 1, 2020, no person shall perform, act, or do business in this state as a pharmacy benefit manager unless the person has a valid license issued under this chapter by the commissioner of commerce.

(b) A license issued in accordance with this chapter is nontransferable.

Subd. 2. **Application.** (a) A pharmacy benefit manager seeking a license shall apply to the commissioner of commerce on a form prescribed by the commissioner. The application form must include at a minimum the following information:

(1) the name, address, and telephone number of the pharmacy benefit manager;

(2) the name and address of the pharmacy benefit manager agent for service of process in this state; and

(3) the name, address, official position, and professional qualifications of each person responsible for the conduct of affairs of the pharmacy benefit manager, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee; the principal officers in the case of a corporation; or the partners or members in the case of a partnership or association.

(b) Each application for licensure must be accompanied by a nonrefundable fee of \$8,500. The fees collected under this subdivision shall be deposited in the general fund.

(c) Within 30 days of receiving an application, the commissioner may require additional information or submissions from an applicant and may obtain any document or information reasonably necessary to verify the information contained in the application. Within 90 days after receipt of a completed application, the network adequacy report required under section 62W.05, and the applicable license fee, the commissioner shall review the application and issue a license if the applicant is deemed qualified under this section. If the commissioner determines the applicant is not qualified, the commissioner shall notify the applicant and shall specify the reason or reasons for the denial.

Subd. 3. **Renewal.** (a) A license issued under this chapter is valid for one year. To renew a license, an applicant must submit a completed renewal application on a form prescribed by the commissioner, the network adequacy report required under section 62W.05, and a renewal fee of \$8,500. The fees collected under this paragraph shall be deposited in the general fund. The commissioner may request a renewal applicant to submit additional information to clarify any new information presented in the renewal application.

(b) A renewal application submitted after the renewal deadline date must be accompanied by a nonrefundable late fee of \$500. The fees collected under this paragraph shall be deposited in the general fund.

(c) The commissioner may deny the renewal of a license for any of the following reasons:

(1) the pharmacy benefit manager has been determined by the commissioner to be in violation or noncompliance with federal or state law; or

(2) the pharmacy benefit manager has failed to timely submit a renewal application and the information required under paragraph (a).

In lieu of a denial of a renewal application, the commissioner may permit the pharmacy benefit manager to submit to the commissioner a corrective action plan to cure or correct deficiencies.

Subd. 4. **Oversight.** (a) The commissioner may suspend, revoke, or place on probation a pharmacy benefit manager license issued under this chapter for any of the following circumstances:

(1) the pharmacy benefit manager has engaged in fraudulent activity that constitutes a violation of state or federal law;

(2) the commissioner has received consumer complaints that justify an action under this subdivision to protect the safety and interests of consumers;

(3) the pharmacy benefit manager fails to pay an application license or renewal fee; and

(4) the pharmacy benefit manager fails to comply with a requirement set forth in this chapter.

(b) The commissioner may issue a license subject to restrictions or limitations, including the types of services that may be supplied or the activities in which the pharmacy benefit manager may be engaged.

Subd. 5. **Penalty.** If a pharmacy benefit manager acts without a license, the pharmacy benefit manager may be subject to a fine of \$5,000 per day for the period the pharmacy benefit manager is found to be in violation. Any penalties collected under this subdivision shall be deposited in the general fund.

Subd. 6. **Enforcement.** The commissioner shall enforce this chapter under the provisions of chapter 45.

Sec. 4. **[62W.04] PHARMACY BENEFIT MANAGER GENERAL BUSINESS PRACTICES.**

(a) A pharmacy benefit manager must exercise good faith and fair dealing in the performance of its contractual duties. A provision in a contract between a pharmacy benefit manager and a health carrier or a network pharmacy that attempts to waive or limit this obligation is void.

(b) A pharmacy benefit manager must notify a health carrier in writing of any activity, policy, or practice of the pharmacy benefit manager that directly or indirectly presents a conflict of interest with the duties imposed in this section.

Sec. 5. **[62W.05] PHARMACY BENEFIT MANAGER NETWORK ADEQUACY.**

Subdivision 1. **Requirements.** (a) A pharmacy benefit manager must provide an adequate and accessible pharmacy network for the provision of prescription drugs that meet the relevant requirements in section 62K.10. Mail order pharmacies must not be included in the calculations of determining the adequacy of the pharmacy benefit manager's pharmacy network under section 62K.10.

(b) A pharmacy benefit manager must submit to the commissioner a pharmacy network adequacy report describing the pharmacy network and pharmacy accessibility in this state, with the pharmacy benefit manager's license application and renewal, in a manner prescribed by the commissioner.

Subd. 2. **Network adequacy waiver.** A pharmacy benefit manager may apply for a waiver from the commissioner of health if the pharmacy benefit manager is unable to meet the network adequacy requirements under subdivision 1. A waiver application must be submitted to the commissioner of health on a form prescribed by the commissioner of health and must:

(1) demonstrate with specific data why the pharmacy benefit manager is not able to meet the requirements; and

(2) include information as to the steps that were and will be taken to address network adequacy.

If a waiver is granted by the commissioner of health, the waiver shall automatically expire after three years. If a renewal of the waiver is sought, the commissioner of health shall consider steps that the pharmacy benefit manager has taken over the past three-year period to address network adequacy.

Subd. 3. **Accreditation standards.** A pharmacy benefit manager must not require pharmacy accreditation standards or recertification requirements to participate in a network that are inconsistent with, more stringent than, or in addition to federal and state requirements for licensure as a pharmacy in this state unless authorized under this chapter.

Sec. 6. **[62W.06] PHARMACY BENEFIT MANAGER TRANSPARENCY.**

Subdivision 1. **Transparency to plan sponsors.** (a) Beginning in the second quarter after the effective date of a contract between a pharmacy benefit manager and a plan sponsor, the pharmacy benefit manager must disclose, upon the request of the plan sponsor, the following information with respect to prescription drug benefits specific to the plan sponsor:

(1) the aggregate wholesale acquisition costs from a drug manufacturer or wholesale drug distributor for each therapeutic category of prescription drugs;

(2) the aggregate wholesale acquisition costs from a drug manufacturer or wholesale drug distributor for each therapeutic category of prescription drugs available to the plan sponsor's enrollees;

(3) the aggregate amount of rebates received by the pharmacy benefit manager by therapeutic category of prescription drugs. The aggregate amount of rebates must include any utilization discounts the pharmacy benefit manager receives from a drug manufacturer or wholesale drug distributor;

(4) any other fees received from a drug manufacturer or wholesale drug distributor;

(5) whether the pharmacy benefit manager has a contract, agreement, or other arrangement with a drug manufacturer to exclusively dispense or provide a drug to a plan sponsor's enrollees, and the application of all consideration or economic benefits collected or received pursuant to the arrangement;

(6) prescription drug utilization information for the plan sponsor's enrollees;

(7) de-identified claims level information in electronic format that allows the plan sponsor to sort and analyze the following information for each claim:

(i) whether the claim required prior authorization;

(ii) the amount paid to the pharmacy for each prescription, net of the aggregate amount of fees or other assessments imposed on the pharmacy, including point-of-sale and retroactive charges;

(iii) any spread between the net amount paid to the pharmacy in item (ii) and the amount charged to the plan sponsor;

(iv) whether the pharmacy is, or is not, under common control or ownership with the pharmacy benefit manager;

(v) whether the pharmacy is, or is not, a preferred pharmacy under the plan;

(vi) whether the pharmacy is, or is not, a mail order pharmacy; and

(vii) whether enrollees are required by the plan to use the pharmacy;

(8) the aggregate amount of payments made by the pharmacy benefit manager to pharmacies owned or controlled by the pharmacy benefit manager on behalf of the sponsor's plan;

(9) the aggregate amount of payments made by the pharmacy benefit manager to pharmacies not owned or controlled by the pharmacy benefit manager on behalf of the sponsor's plan; and

(10) the aggregate amount of the fees imposed on, or collected from, network pharmacies or other assessments against network pharmacies, including point-of-sale fees and retroactive charges, and the application of those amounts collected pursuant to the contract with the plan sponsor.

(b) A pharmacy benefit manager may require a plan sponsor to agree to a nondisclosure agreement that specifies that the information reported under this section is proprietary information. The pharmacy benefit manager is not required to disclose the information to the plan sponsor until the plan sponsor has executed the nondisclosure agreement, if required by the pharmacy benefit manager.

Subd. 2. Transparency report to the commissioner. (a) Beginning June 1, 2020, and annually thereafter, each pharmacy benefit manager must submit to the commissioner a transparency report containing data from the prior calendar year as it pertains to plan sponsors doing business in Minnesota. The report must contain the following information:

(1) the aggregate wholesale acquisition costs from a drug manufacturer or wholesale drug distributor for each therapeutic category of prescription drugs for all of the pharmacy benefit manager's plan sponsor clients, and these costs net of all rebates and other fees and payments, direct or indirect, from all sources;

(2) the aggregate amount of all rebates that the pharmacy benefit manager received from all drug manufacturers for all of the pharmacy benefit manager's plan sponsor clients. The aggregate amount of rebates must include any utilization discounts the pharmacy benefit manager receives from a drug manufacturer or wholesale drug distributor;

(3) the aggregate of all fees from all sources, direct or indirect, that the pharmacy benefit manager received for all of the pharmacy benefit manager's plan sponsor clients;

(4) the aggregate retained rebates and other fees, as listed in clause (3), that the pharmacy benefit manager received from all sources, direct or indirect, that were not passed through to plan sponsors;

(5) the aggregate retained rebate and fees percentage;

(6) the highest, lowest, and mean aggregate retained rebate and fees percentage for all of the pharmacy benefit manager's plan sponsor clients; and

(7) de-identified claims level information in electronic format that allows the commissioner to sort and analyze the following information for each claim:

(i) the drug and quantity for each prescription;

(ii) whether the claim required prior authorization;

(iii) patient cost-sharing paid on each prescription. This data is classified pursuant to paragraph (d);

(iv) the amount paid to the pharmacy for each prescription, net of the aggregate amount of fees or other assessments imposed on the pharmacy, including point-of-sale and retroactive charges. This data is classified pursuant to paragraph (d);

(v) any spread between the net amount paid to the pharmacy in item (iv) and the amount charged to the plan sponsor. This data is classified pursuant to paragraph (d);

(vi) identity of the pharmacy for each prescription;

(vii) whether the pharmacy is, or is not, under common control or ownership with the pharmacy benefit manager;

(viii) whether the pharmacy is, or is not, a preferred pharmacy under the plan;

(ix) whether the pharmacy is, or is not, a mail order pharmacy; and

(x) whether enrollees are required by the plan to use the pharmacy.

(b) Within 60 days upon receipt of the transparency report, the commissioner shall publish the report from each pharmacy benefit manager on the Department of Commerce's website, with the exception of data considered trade secret information under section 13.37. The transparency report must be published in such a way as to not disclose the identity of a specific plan sponsor, the prices charged for a specific prescription drug or classes of drugs, or the amount of any rebates provided for a specific prescription drug or classes of drugs.

(c) For purposes of this subdivision, the aggregate retained rebate and fee percentage must be calculated for each plan sponsor for rebates and fees in the previous calendar year as follows:

(1) the sum total dollar amount of rebates and fees from all drug manufacturers for all utilization of enrollees of a plan sponsor that was not passed through to the plan sponsor; and

(2) divided by the sum total dollar amount of all rebates and fees received from all sources, direct or indirect, for all enrollees of a plan sponsor.

(d) Data, documents, materials, or other information in the possession or control of the commissioner of commerce that are obtained by, created by, or disclosed to the commissioner pursuant to paragraph (a), clause (7), items (iii), (iv), and (v), are classified as confidential, protected nonpublic, or both. Those data, documents, materials, or other information are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the data, documents, materials, or other information in the furtherance of a regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the data, documents, materials, or other information public without the prior written consent of the pharmacy benefit manager. Neither the commissioner nor any person who received data, documents, materials, or other information while acting under the authority of the commissioner are permitted or required to testify in any private civil action concerning data, documents, materials, or information subject to this paragraph that are classified as confidential, protected nonpublic, or both.

Subd. 3. **Penalty.** The commissioner may impose civil penalties of not more than \$1,000 per day per violation of this section.

Sec. 7. [62W.07] PHARMACY OWNERSHIP INTEREST; PHARMACY SERVICES.

(a) A pharmacy benefit manager that has an ownership interest either directly or indirectly, or through an affiliate or subsidiary, in a pharmacy must disclose to a plan sponsor that contracts with the pharmacy benefit manager any difference between the amount paid to that pharmacy and the amount charged to the plan sponsor.

(b) A pharmacy benefit manager or health carrier is prohibited from penalizing, requiring, or providing financial incentives, including variations in premiums, deductibles, co-payments, or coinsurance, to an enrollee as an incentive to use a retail pharmacy, mail order pharmacy, specialty pharmacy, or other network pharmacy provider in which a pharmacy benefit manager has an ownership interest or in which the pharmacy provider has an ownership interest in the pharmacy benefit manager.

(c) Paragraph (b) does not apply if the pharmacy benefit manager or health carrier offers an enrollee the same financial incentives for using a network retail pharmacy, mail order pharmacy, specialty pharmacy, or other network pharmacy in which the pharmacy benefit manager has no ownership interest and the network pharmacy has agreed to accept the same pricing terms, conditions, and requirements related to the cost of the prescription drug and the cost of dispensing the prescription drug that are in the agreement with a network pharmacy in which the pharmacy benefit manager has an ownership interest.

(d) A pharmacy benefit manager or health carrier is prohibited from imposing limits, including quantity limits or refill frequency limits, on an enrollee's access to medication that differ based solely on whether the health carrier or pharmacy benefit manager has an ownership interest in a pharmacy or the pharmacy has an ownership interest in the pharmacy benefit manager.

(e) Nothing in paragraph (d) shall be construed to prohibit a pharmacy benefit manager from imposing different limits, including quantity limits or refill frequency limits on an enrollee's access to medication based on whether the enrollee uses a mail order pharmacy or retail pharmacy so long as the enrollee has the option to use a mail order pharmacy or retail pharmacy with the same limits imposed in which the pharmacy benefit manager or health carrier does not have an ownership interest.

(f) A pharmacy benefit manager or health carrier must not prohibit an entity authorized to participate in the federal 340B Drug Pricing Program under section 340B of the Public Health Service Act, United States Code, title 42, chapter 6A, or a pharmacy under contract with such an entity to provide pharmacy services from participating in the pharmacy benefit manager's or health carrier's provider network. A pharmacy benefit manager or health carrier must not reimburse an entity or a pharmacy under contract with such an entity participating in the federal 340B Drug Pricing Program differently than other similarly situated pharmacies. A pharmacy benefit manager that contracts with a managed care plan or county-based purchasing plan under contract with the commissioner of human services under chapter 256B or 256L must comply with this paragraph only if the entity or contracted pharmacy can identify all claims eligible for 340B drugs at the time of initial claims submission at the point of sale. This paragraph does not preclude a pharmacy benefit manager that contracts with a managed care plan or county-based purchasing plan under contract with the commissioner of human services under chapter 256B or 256L from reimbursing an entity or pharmacy identified in this paragraph at a lower rate for any prescription drug purchased by the entity or pharmacy through the federal 340B Drug Pricing Program.

Sec. 8. [62W.075] THERAPEUTIC ALTERNATIVE PRESCRIPTION DRUG.

A pharmacy benefit manager or health carrier must not require, or demonstrate a preference for, a pharmacy to dispense a therapeutically equivalent or therapeutically alternative drug that costs the enrollee more out-of-pocket than the prescribed drug, unless the substitution is made for medical reasons that benefit the patient. Before a substitution is made under this section, the pharmacy must obtain approval from the prescribing practitioner and must inform the enrollee of the reason for the substitution.

Sec. 9. [62W.076] SPECIALTY PHARMACY.

A pharmacy benefit manager that contracts with a specialty pharmacy must disclose to an enrollee, upon request, the enrollee's out-of-pocket costs at the specialty pharmacy for the prescription drug referenced by the enrollee and the enrollee's out-of-pocket cost at a network retail pharmacy that is identified by the enrollee that is within the enrollee's health plan network.

Sec. 10. **[62W.077] PREFERRED NETWORK.**

A pharmacy benefit manager that uses a preferred network of pharmacies must disclose to an enrollee upon request the enrollee's out-of-pocket cost at the preferred pharmacy for the prescription drug referenced by the enrollee and the enrollee's out-of-pocket cost at a nonpreferred pharmacy identified by the enrollee that is within the enrollee's health plan network.

Sec. 11. **[62W.08] MAXIMUM ALLOWABLE COST PRICING.**

(a) With respect to each contract and contract renewal between a pharmacy benefit manager and a pharmacy, the pharmacy benefits manager must:

(1) provide to the pharmacy, at the beginning of each contract and contract renewal, the sources utilized to determine the maximum allowable cost pricing of the pharmacy benefit manager;

(2) update any maximum allowable cost price list at least every seven business days, noting any price changes from the previous list, and provide a means by which network pharmacies may promptly review current prices in an electronic, print, or telephonic format within one business day at no cost to the pharmacy;

(3) maintain a procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing in a timely manner in order to remain consistent with changes in the marketplace;

(4) ensure that the maximum allowable cost prices are not set below sources utilized by the pharmacy benefits manager; and

(5) upon request of a network pharmacy, disclose the sources utilized for setting maximum allowable cost price rates on each maximum allowable cost price list included under the contract and identify each maximum allowable cost price list that applies to the network pharmacy. A pharmacy benefit manager must make the list of the maximum allowable costs available to a contracted pharmacy in a format that is readily accessible and usable to the network pharmacy.

(b) A pharmacy benefit manager must not place a prescription drug on a maximum allowable cost list unless the drug is available for purchase by pharmacies in this state from a national or regional drug wholesaler and is not obsolete.

(c) Each contract between a pharmacy benefit manager and a pharmacy must include a process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing that includes:

(1) a 15-business-day limit on the right to appeal following the initial claim;

(2) a requirement that the appeal be investigated and resolved within seven business days after the appeal is received; and

(3) a requirement that a pharmacy benefit manager provide a reason for any appeal denial and identify the national drug code of a drug that may be purchased by the pharmacy at a price at or below the maximum allowable cost price as determined by the pharmacy benefit manager.

(d) If an appeal is upheld, the pharmacy benefit manager must make an adjustment to the maximum allowable cost price no later than one business day after the date of determination. The pharmacy benefit manager must make the price adjustment applicable to all similarly situated network pharmacy providers as defined by the plan sponsor.

Sec. 12. **[62W.09] PHARMACY AUDITS.**

Subdivision 1. Procedure and process for conducting and reporting an audit. (a) Unless otherwise prohibited by federal requirements or regulations, any entity conducting a pharmacy audit must follow the following procedures:

(1) a pharmacy must be given notice 14 days before an initial on-site audit is conducted;

(2) an audit that involves clinical or professional judgment must be conducted by or in consultation with a licensed pharmacist; and

(3) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies.

(b) Unless otherwise prohibited by federal requirements or regulations, for any entity conducting a pharmacy audit the following items apply:

(1) the period covered by the audit may not exceed 24 months from the date that the claim was submitted to or adjudicated by the entity, unless a longer period is required under state or federal law;

(2) if an entity uses random sampling as a method for selecting a set of claims for examination, the sample size must be appropriate for a statistically reliable sample. Notwithstanding section 151.69, the auditing entity shall provide the pharmacy a masked list that provides a prescription number or date range that the auditing entity is seeking to audit;

(3) an on-site audit may not take place during the first five business days of the month unless consented to by the pharmacy;

(4) auditors may not enter the pharmacy area unless escorted where patient-specific information is available and to the extent possible must be out of sight and hearing range of the pharmacy customers;

(5) any recoupment will not be deducted against future remittances until after the appeals process and both parties have received the results of the final audit;

(6) a pharmacy benefit manager may not require information to be written on a prescription unless the information is required to be written on the prescription by state or federal law. Recoupment may be assessed for items not written on the prescription if:

(i) additional information is required in the provider manual; or

(ii) the information is required by the Food and Drug Administration (FDA); or

(iii) the information is required by the drug manufacturer's product safety program; and

(iv) the information in item (i), (ii), or (iii) is not readily available for the auditor at the time of the audit; and

(7) the auditing company or agent may not receive payment based on a percentage of the amount recovered. This section does not prevent the entity conducting the audit from charging or assessing the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:

(i) the plan sponsor and the entity conducting the audit have a contract that explicitly states the percentage charge or assessment to the plan sponsor; and

(ii) a commission to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped.

(c) An amendment to pharmacy audit terms in a contract between a pharmacy benefit manager and a pharmacy must be disclosed to the pharmacy at least 60 days prior to the effective date of the proposed change.

Subd. 2. Requirement for recoupment or chargeback. For recoupment or chargeback, the following criteria apply:

(1) audit parameters must consider consumer-oriented parameters based on manufacturer listings;

(2) a pharmacy's usual and customary price for compounded medications is considered the reimbursable cost unless the pricing methodology is outlined in the pharmacy provider contract;

(3) a finding of overpayment or underpayment must be based on the actual overpayment or underpayment and not a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;

(4) the entity conducting the audit shall not use extrapolation in calculating the recoupment or penalties for audits unless required by state or federal law or regulations;

(5) calculations of overpayments must not include dispensing fees unless a prescription was not actually dispensed, the prescriber denied authorization, the prescription dispensed was a medication error by the pharmacy, or the identified overpayment is solely based on an extra dispensing fee;

(6) an entity may not consider any clerical or record-keeping error, such as a typographical error, scrivener's error, or computer error regarding a required document or record as fraud, however such errors may be subject to recoupment;

(7) in the case of errors that have no actual financial harm to the patient or plan, the pharmacy benefit manager must not assess any chargebacks. Errors that are a result of the pharmacy failing to comply with a formal corrective action plan may be subject to recovery; and

(8) interest may not accrue during the audit period for either party, beginning with the notice of the audit and ending with the final audit report.

Subd. 3. Documentation. (a) To validate the pharmacy record and delivery, the pharmacy may use authentic and verifiable statements or records including medication administration records of a nursing home, assisted living facility, hospital, physician, or other authorized practitioner or additional audit documentation parameters located in the provider manual.

(b) Any legal prescription that meets the requirements in this chapter may be used to validate claims in connection with prescriptions, refills, or changes in prescriptions, including medication administration records, faxes, e-prescriptions, or documented telephone calls from the prescriber or the prescriber's agents.

Subd. 4. Appeals process. The entity conducting the audit must establish a written appeals process which must include appeals of preliminary reports and final reports.

Subd. 5. **Audit information and reports.** (a) A preliminary audit report must be delivered to the pharmacy within 60 days after the conclusion of the audit.

(b) A pharmacy must be allowed at least 45 days following receipt of the preliminary audit to provide documentation to address any discrepancy found in the audit.

(c) A final audit report must be delivered to the pharmacy within 120 days after receipt of the preliminary audit report or final appeal, whichever is later.

(d) An entity shall remit any money due to a pharmacy or pharmacist as a result of an underpayment of a claim within 45 days after the appeals process has been exhausted and the final audit report has been issued.

Subd. 6. **Disclosure to plan sponsor.** Where contractually required, an auditing entity must provide a copy to the plan sponsor of its claims that were included in the audit, and any recouped money shall be returned to the plan sponsor.

Subd. 7. **Applicability of other laws and regulations.** This section does not apply to any investigative audit that involves suspected fraud, willful misrepresentation, abuse, or any audit completed by Minnesota health care programs.

Subd. 8. **Definitions.** For purposes of this section, "entity" means a pharmacy benefit manager or any person or organization that represents a pharmacy benefit manager.

Sec. 13. **[62W.10] SYNCHRONIZATION.**

(a) For purposes of this section, "synchronization" means the coordination of prescription drug refills for a patient taking two or more medications for one or more chronic conditions, to allow the patient's medications to be refilled on the same schedule for a given period of time.

(b) A contract between a pharmacy benefit manager and a pharmacy must allow for synchronization of prescription drug refills for a patient on at least one occasion per year, if the following criteria are met:

(1) the prescription drugs are covered under the patient's health plan or have been approved by a formulary exceptions process;

(2) the prescription drugs are maintenance medications as defined by the health plan and have one or more refills available at the time of synchronization;

(3) the prescription drugs are not Schedule II, III, or IV controlled substances;

(4) the patient meets all utilization management criteria relevant to the prescription drug at the time of synchronization;

(5) the prescription drugs are of a formulation that can be safely split into short-fill periods to achieve synchronization; and

(6) the prescription drugs do not have special handling or sourcing needs that require a single, designated pharmacy to fill or refill the prescription.

(c) When necessary to permit synchronization, the pharmacy benefit manager must apply a prorated, daily patient cost-sharing rate to any prescription drug dispensed by a pharmacy under this section. The dispensing fee must not be prorated, and all dispensing fees shall be based on the number of prescriptions filled or refilled.

(d) Synchronization may be requested by the patient or by the patient's parent or legal guardian if the patient is under the age of 18 or is incapacitated as defined in section 524.5-102, or by the patient's health care agent as defined in chapter 145C.

Sec. 14. **[62W.11] GAG CLAUSE PROHIBITION.**

(a) No contract between a pharmacy benefit manager or health carrier and a pharmacy or pharmacist shall prohibit, restrict, or penalize a pharmacy or pharmacist from disclosing to an enrollee any health care information that the pharmacy or pharmacist deems appropriate regarding the nature of treatment; the risks or alternatives; the availability of alternative therapies, consultations, or tests; the decision of utilization reviewers or similar persons to authorize or deny services; the process that is used to authorize or deny health care services or benefits; or information on financial incentives and structures used by the health carrier or pharmacy benefit manager.

(b) A pharmacy or pharmacist must provide to an enrollee information regarding the enrollee's total cost for each prescription drug dispensed where part or all of the cost of the prescription is being paid or reimbursed by the employer-sponsored plan or by a health carrier or pharmacy benefit manager, in accordance with section 151.214, subdivision 1.

(c) A pharmacy benefit manager or health carrier must not prohibit a pharmacist or pharmacy from discussing information regarding the total cost for pharmacy services for a prescription drug, including the patient's co-payment amount and the pharmacy's own usual and customary price of the prescription.

(d) A pharmacy benefit manager or health carrier must not prohibit a pharmacist or pharmacy from discussing the availability of any therapeutically equivalent alternative prescription drugs or alternative methods for purchasing the prescription drug, including but not limited to paying out-of-pocket the pharmacy's usual and customary price when that amount is less expensive to the enrollee than the amount the enrollee is required to pay for the prescription drug under the enrollee's health plan.

Sec. 15. **[62W.12] POINT OF SALE.**

No pharmacy benefit manager or health carrier shall require an enrollee to make a payment at the point of sale for a covered prescription drug in an amount greater than the lesser of:

(1) the applicable co-payment for the prescription drug;

(2) the allowable claim amount for the prescription drug; or

(3) the amount an enrollee would pay for the prescription drug if the enrollee purchased the prescription drug without using a health plan or any other source of prescription drug benefits or discounts.

Sec. 16. **[62W.13] RETROACTIVE ADJUSTMENTS.**

No pharmacy benefit manager shall retroactively adjust a claim for reimbursement submitted by a pharmacy for a prescription drug, unless the adjustment is a result of a:

(1) pharmacy audit conducted in accordance with section 62W.09; or

(2) technical billing error.

Sec. 17. **[62W.14] PROMPT FILLING FOR SPECIALTY DRUGS.**

(a) A health carrier or pharmacy benefit manager that requires or provides financial incentives for enrollees to use a mail order pharmacy to fill a prescription for a specialty drug must ensure through contract and other means that the mail order pharmacy dispenses the prescription drug to the enrollee in a timely manner, such that the enrollee receives the filled prescription within seven business days of the date of transmittal to the mail order pharmacy. The health carrier or pharmacy benefit manager may grant to a mail order pharmacy an exemption from this requirement if the mail order pharmacy can document that the specialty drug was out of stock due to a delay in shipment by the specialty drug manufacturer or wholesaler. If an exemption is granted, the health carrier or pharmacy benefit manager must notify the enrollee within 24 hours of granting the exemption and, if medically necessary, must provide the enrollee with an emergency supply of the specialty drug.

(b) For purposes of this section, "health carrier" includes managed care plans and county-based purchasing plans participating in a public health care program under chapter 256B or 256L, and integrated health partnerships established under section 256B.0755.

Sec. 18. Minnesota Statutes 2018, section 151.21, subdivision 7, is amended to read:

Subd. 7. **Drug formulary.** ~~This section~~ Subdivision 3 does not apply when a pharmacist is dispensing a prescribed drug to persons covered under a managed health care plan that maintains a mandatory or closed drug formulary.

Sec. 19. Minnesota Statutes 2018, section 151.21, is amended by adding a subdivision to read:

Subd. 7a. **Coverage by substitution.** (a) When a pharmacist receives a prescription order by paper or hard copy, by electronic transmission, or by oral instruction from the prescriber, in which the prescriber has not expressly indicated that the prescription is to be dispensed as communicated and the drug prescribed is not covered under the purchaser's health plan or prescription drug plan, the pharmacist may dispense a therapeutically equivalent and interchangeable prescribed drug or biological product that is covered under the purchaser's plan, if the pharmacist has a written protocol with the prescriber that outlines the class of drugs of the same generation and designed for the same indication that can be substituted and the required communication between the pharmacist and the prescriber.

(b) The pharmacist must inform the purchaser if the pharmacist is dispensing a drug or biological product other than the specific drug or biological product prescribed and the reason for the substitution.

(c) The pharmacist must communicate to the prescriber the name and manufacturer of the substituted drug that was dispensed and the reason for the substitution, in accordance with the written protocol.

Sec. 20. **RULEMAKING AUTHORITY.**

The commissioner of commerce may adopt permanent rules for license application and renewal requirements, forms, procedures, network adequacy, and reporting procedures and compliance, for pharmacy benefit manager licensing under Minnesota Statutes, chapter 62W. The commissioner must not adopt rules to implement Minnesota Statutes, chapter 62W, under any other grant of rulemaking authority. If the commissioner of commerce does not adopt rules by January 1, 2022, rulemaking authority under this section is repealed. Rulemaking authority under this section is not continuing authority to amend or repeal rules. Notwithstanding Minnesota Statutes, section 14.125, any additional action on rules after adoption must be under specific statutory authority to take the additional action.

Sec. 21. **INTERPRETATION.**

If an appropriation in this act is enacted more than once in the 2019 regular legislative session, the appropriation must be given effect only once.

Sec. 22. **APPROPRIATION.**

\$340,000 in fiscal year 2020 and \$383,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of commerce for licensing activities under Minnesota Statutes, chapter 62W. The base for this appropriation is \$425,000 in fiscal year 2022 and \$425,000 in fiscal year 2023. \$246,000 each year shall be used solely for staff costs for two enforcement investigators solely for enforcement activities under Minnesota Statutes, chapter 62W.

Sec. 23. **REPEALER.**

Minnesota Statutes 2018, sections 151.214, subdivision 2; 151.60; 151.61; 151.62; 151.63; 151.64; 151.65; 151.66; 151.67; 151.68; 151.69; 151.70; and 151.71, are repealed."

Delete the title and insert:

"A bill for an act relating to health care; creating licensure and regulations for pharmacy benefit managers; appropriating money; amending Minnesota Statutes 2018, section 151.21, subdivision 7, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 62W; repealing Minnesota Statutes 2018, sections 151.214, subdivision 2; 151.60; 151.61; 151.62; 151.63; 151.64; 151.65; 151.66; 151.67; 151.68; 151.69; 151.70; 151.71."

We request the adoption of this report and repassage of the bill.

Senate Conferees: SCOTT M. JENSEN, MICHELLE R. BENSON and MATT D. KLEIN.

House Conferees: ALICE MANN, KELLY MORRISON and JEREMY MUNSON.

Mann moved that the report of the Conference Committee on S. F. No. 278 be adopted and that the bill be repassed as amended by the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Mann motion and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|-------------|-------------|------------|----------|------------|
| Acomb | Bennett | Carlson, L. | Davnie | Elkins | Gomez |
| Albright | Bernardy | Christensen | Dehn | Erickson | Green |
| Backer | Bierman | Clafin | Demuth | Fabian | Grossell |
| Bahner | Boe | Considine | Dettmer | Fischer | Gruenhagen |
| Bahr | Brand | Daniels | Drazkowski | Franson | Gunther |
| Baker | Cantrell | Daudt | Ecklund | Freiberg | Haley |
| Becker-Finn | Carlson, A. | Davids | Edelson | Garofalo | Halverson |

| | | | | | |
|------------|-----------------|----------|------------|------------|--------------|
| Hamilton | Koegel | Lucero | Nash | Poston | Tabke |
| Hansen | Kotyza-Witthuhn | Lueck | Nelson, M. | Pryor | Theis |
| Hassan | Koznick | Mahoney | Nelson, N. | Quam | Torkelson |
| Hausman | Kresha | Mann | Neu | Richardson | Urdahl |
| Heinrich | Kunesh-Podein | Mariani | Noor | Robbins | Vang |
| Heintzeman | Layman | Marquart | Nornes | Runbeck | Vogel |
| Her | Lee | Masin | O'Driscoll | Sandell | Wagenius |
| Hertaus | Lesch | McDonald | Olson | Sandstede | Wazlawik |
| Hornstein | Liebling | Mekeland | O'Neill | Sauke | Winkler |
| Howard | Lien | Miller | Pelowski | Schomacker | Wolgammott |
| Huot | Lillie | Moller | Persell | Schultz | Xiong, J. |
| Johnson | Lippert | Moran | Petersburg | Scott | Xiong, T. |
| Jurgens | Lislegard | Morrison | Pierson | Stephenson | Youakim |
| Kiel | Loeffler | Munson | Pinto | Sundin | Zerwas |
| Klevorn | Long | Murphy | Poppe | Swedzinski | Spk. Hortman |

The motion prevailed.

S. F. No. 278, A bill for an act relating to health care; creating licensure and regulations for pharmacy benefit managers; appropriating money; amending Minnesota Statutes 2018, section 151.21, subdivision 7, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 62W; repealing Minnesota Statutes 2018, sections 151.214, subdivision 2; 151.60; 151.61; 151.62; 151.63; 151.64; 151.65; 151.66; 151.67; 151.68; 151.69; 151.70; 151.71.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 2 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|-------------|------------|-----------------|------------|------------|--------------|
| Acomb | Demuth | Heinrich | Lippert | Neu | Schultz |
| Albright | Dettmer | Heintzeman | Lislegard | Noor | Scott |
| Backer | Ecklund | Her | Loeffler | Nornes | Stephenson |
| Bahner | Edelson | Hertaus | Long | O'Driscoll | Sundin |
| Baker | Elkins | Hornstein | Lucero | Olson | Swedzinski |
| Becker-Finn | Erickson | Howard | Lueck | O'Neill | Tabke |
| Bennett | Fabian | Huot | Mahoney | Pelowski | Theis |
| Bernardy | Fischer | Johnson | Mann | Persell | Torkelson |
| Bierman | Franson | Jurgens | Mariani | Petersburg | Urdahl |
| Boe | Freiberg | Kiel | Marquart | Pierson | Vang |
| Brand | Garofalo | Klevorn | Masin | Pinto | Vogel |
| Cantrell | Gomez | Koegel | McDonald | Poppe | Wagenius |
| Carlson, A. | Green | Kotyza-Witthuhn | Mekeland | Poston | Wazlawik |
| Carlson, L. | Grossell | Koznick | Miller | Pryor | Winkler |
| Christensen | Gruenhagen | Kresha | Moller | Quam | Wolgammott |
| Clafin | Gunther | Kunesh-Podein | Moran | Richardson | Xiong, J. |
| Considine | Haley | Layman | Morrison | Robbins | Xiong, T. |
| Daniels | Halverson | Lee | Munson | Runbeck | Youakim |
| Daudt | Hamilton | Lesch | Murphy | Sandell | Zerwas |
| Davids | Hansen | Liebling | Nash | Sandstede | Spk. Hortman |
| Davnie | Hassan | Lien | Nelson, M. | Sauke | |
| Dehn | Hausman | Lillie | Nelson, N. | Schomacker | |

Those who voted in the negative were:

Bahr Drazkowski

The bill was repassed, as amended by Conference, and its title agreed to.

ADJOURNMENT

Winkler moved that when the House adjourns today it adjourn until 10:00 a.m., Friday, May 17, 2019. The motion prevailed.

Winkler moved that the House adjourn. The motion prevailed, and Speaker pro tempore Halverson declared the House stands adjourned until 10:00 a.m., Friday, May 17, 2019.

PATRICK D. MURPHY, Chief Clerk, House of Representatives

